

**ALBANY TOWNSHIP
PLANNING COMMISSION
Monthly Meeting
and
Public Hearing
Tuesday, October 12, 2021**

The October 12, 2021 meeting of the Albany Planning Commission was called to order at 7:30 P.M. by Chair Joe Peternell at the Albany City Hall Council Chambers. Members present, Joe Peternell, Gary Bloch and Mike Noll. Also present, Clerk Diane Noll, Supervisor Mary Rosen, and Zoning Administrator Jerry Forster.

Guests: John Christen, Ryan Pratt, Mark Beutz, Ross Tamm, Nathan Tamm

The Pledge of Allegiance was recited.

APPROVAL OF AGENDA

A motion to approve the agenda as presented was made by Commissioner Noll, seconded by Commissioner Bloch, motion carried.

APPROVAL OF MINUTES

A motion to approve the minutes of monthly meeting of June 8, 2021, as presented was made by Commissioner Noll, seconded by Commissioner Bloch, motion carried.

OPEN FORUM

John Christen-complaint on road grading, 249 Ave, road was graveled, was graded very nice, then the grader comes through and wrecks it. At intersection of Orchard Road and County road, tar is ripped up from the grader.

Ryan Pratt-Dust suppressant was put on roads, and then it gets graded off. Can the Township ask the grader to not grade after dust suppressant is placed?

PUBLIC HEARING

Variance to transfer a Building Credit from a non-contiguous parcel

Ron and Joanne Tamm represented by Ross and Nathan Tamm

Procedure for Public Hearing

This is a public hearing to consider the proposed Variance Request by Ron and Joanne Tamm . This Public Hearing is part of the legal procedure that the Albany Township Planning Commission is required to follow regarding a Variance, as mandated by MN State Statute 462.357, subd.6(2) and 462.358 subd (6). The Planning Commission is a recommending board, and will advise the Township board of their recommendation.

The Township Board of Supervisors will take into account what is said at this hearing and make a final decision. The Township Clerk will now read, for the record, the notice of this public hearing.

Reading of Hearing Notice-Clerk Noll

A request for a variance has been submitted by Ron and Joanne Tamm, 33052 Co Road 41, Albany MN 56307, requesting a Transfer of a Building Credit from parcel 01.00265.0010 to a non-contiguous parcel, 01.00315.004 to allow an additional residence to be built on a restricted 40 acre parcel.

According to Albany Township Zoning Ordinance Number 6, Section 9 B. allows for transfer of building credits only on contiguous parcels.

The property under consideration is in Sections 33 and 27, Township 125, Range 031, Albany. A public hearing regarding the request for variance will be held by the Albany Planning Commission on Tuesday, October 12, 2021, beginning at approximately 7:30 P.M. in the Albany City Council Chambers. Notice was sent to neighbors within ½ mile of proposal, it was also Posted/Published in the Star Enterprise, Wednesday, September 29 and October 6, 2021.

PUBLIC HEARING PROCEDURE-Chair Peternell

Discussion will be limited to the requested Proposed amendments.

Anyone wishing to comment or ask questions will be allowed to do so.

No speaker will be permitted to speak more than twice except to answer a question from the board.

Each speaker will be limited to a total of 2 minutes.

No applause or interruptions are permitted.

All comments must be directed to the chair.

Each person must state his or her name and address before speaking.

The board may recess the hearing to another date and time in order to properly hear all those concerned, collect further information, or make a final decision.

READING FOR REQUEST FOR VARIANCE-Clerk Noll

On September 23, 2021, Albany Township received the completed Variance request from Joann Tamm and Ronald Tamm, for a variance regarding the Transfer of a building credit from a non-contiguous 80 acre lot to a restricted 35.3 acre lot. Both lots have been owned by the Tamm's for more than 10 years.

While the proposed use (single family home) is allowed per Township Ordinance in the A-40 District, the transfer of development rights from non-contiguous lots is not allowed. The Township's Zoning ordinance; 9.3 Ag District A-40 has repealed the County Ordinance 9.3.7 C Density Transfers from Non-contiguous lots.

COMMUNICATIONS FROM THE PUBLIC- Two neighbors that received the notice have expressed their concern on allowing the transfer of credits in the township.

PUBLIC COMMENTS

Zoning Administrator Jerry Forster-the non-contiguous was to keep farming and to prevent cluster development, this is not a cluster development.

Comissioner Joe Peternell-building credit with each 40, if we do not allow a transfer from one to another, this will do the opposite of what it is intended for. This is not a prime 40 acres. They could build this house in the middle of a good 40.

Commissioner Mike Noll-Is there are different areas on the property where the house could be built. Has this been considered?

Ross Tamm-planning on building in 3 years, nothing has not been platted.

Commissioner Gary Bloch-Suggested to change the ordinance rather than allowing the variance. I have no problem with this transfer, it will not change the essential character of the neighborhood.

Commissioner Mike Noll- if we take the TDR out of our ordinance, we will loose the control of TDR.

Comissioner Gary Bloch- we can make it as restrictive as we need to.

Ryan Pratt-was on PC when this was designed. If we allow this to happen, this will be a snowball effect requesting a transfer. Current owners will transfer and then sell it allowing more houses in the A40 area. Plans were to allow house near the city, not in the A40 areas.

Commissioner Mike Noll-There was a considerable amount of work done to build the current ordinance, it was not done haphazardly.

Commissioner Joe Peternell- this property that the TDR is being transferred to is a small lot, and not prime farm land.

John Christen- a few years ago we were discussing the same thing, it was denied. Every case is different. If we are going to keep AG, we need to restrict housing. It makes AG harder every-time a house goes up.

ACTION: A motion to close the Public hearing was made by Commissioner Noll, seconded by Commissioner Bloch, motion carried.

ALBANY TOWNSHIP
FINDINGS OF FACT WORKSHEET

NAME OF APPLICANT: Ron & Joanne Tamm DATE: October 12, 2021

VARIANCE REQUESTED: Transfer of Developmental Rights (TDR) from a non-contiguous parcel

A variance may be granted only when it is in harmony with the general purposes and intent of the official control and consistent with the comprehensive plan and where the strict enforcement of township zoning controls will result in a practical difficulty. A determination that a "practical difficulty" exists is based upon the consideration of the following criteria as defined in Minnesota Statutes, Section 394.27:

1. The proposed use is allowed in the zoning districts in which the subject property is located? **YES** or NO Bloch-Yes, Noll-Yes, Peternell-Yes

The proposed use (single family home) is allowed per Township Ordinance:in the A-40 District.

2. The variance will be in harmony with the general purposes and intent of the official control(s) any related Ordinances? YES or **NO** Bloch-No, Noll - No, Peternell-No

Allowing a TDR between non-contiguous parcels is not in compliance with our Ordinance as the transfer of development rights was specifically repealed by the Township.

3. The variance will be consistent with the Comprehensive Plan? YES or **NO**
Bloch-No, Noll-No, Peternell-Yes

Comprehensive Plan Chapter Four-General Land Use; To provide for controlled growth. The proposed transfer is in close proximity to three other residents, which would place the housing in one area not spreading it out over agricultural farm land.

Page 4: Albany Township does not support the transfer of development rights within the township.

4. The variance may be granted if there are Practical Difficulties in complying with the official control(s):

- a. The property owner proposes to use the property in a reasonable manner? **YES** or NO
Bloch-Yes, Noll-Yes, Peternell-Yes

Property owner's plan is to sell this parcel to allow his grandson to assist in the farming operation. Allowing for an additional residence on the acreage is a using the property in a reasonable manner.

- b. The plight of the landowner is due to circumstances unique to the property, not created by the landowner? **YES** or NO Bloch-Yes, Peternell-Yes, Noll-No

Was not created by landowner; The ordinance is what created the hardship.

In 2014 the landowner allowed a house to be built on a section of this 40 acres transferring the

building credit off the remaining parcel. There is nothing unique about the circumstances; this property is in the present circumstance was created by the property owner's past actions in allowing the construction of a house on the 40 acre parcel.

c. The variance, if granted, will not alter the essential character of the locality? **YES** or NO
Bloch-Yes, Noll-Yes, Peternell-Yes

By itself the proposed transfer would not alter the essential character of the locality, as the property would still be agriculture in nature.

d. The need for the variance involves more than economic considerations? **YES** or NO
Bloch-Yes, Noll-Yes, Peternell-Yes

Economics have no impact on the Variance request.

The Township should consider each of the elements listed above. If any one element is voted "NO" in the majority, then the criteria for granting a variance, per Minnesota Statutes, Section 391.27, has NOT been met and the variance, as requested, should be denied.

ACTION: A motion to recommend to the board approval of the Variance request with additional consultation of the attorney was made by Commissioner Peternell, seconded by Commissioner Bloch. Vote: **Bloch-Yes, Peternell-Yes, Noll-No**

NEW BUSINESS

OLD BUSINESS

Changes in County Ordinances
Change in TDR make it acceptable
Move to November meeting.

REPORTS

Building permits-Administrator Forster

CJK Partnership, 33721 Sand Lake Road – 911 Sign
Jim and Sandy Traeger-20232 St Anna Dr, Accessory Building
WE B Farming 37662 Co Rd 10-Storage Building
Chris Ramler, 37804 County Road 10—911 sign
Joel Bauer, 20187 Rushmeyer Lake Road-Accessory building
Charles & Marilyn Burger-22546 360th St, Addition to Garage
Adam Stangler, 33742 County Road 10 911 sign

ADJOURNMENT

A motion to adjourn was made by Commissioner Noll , seconded by Commissioner Bloch, motion carried.

Meeting adjourned at 8:55 P.M.

Respectfully submitted,

Diane E Noll

Diane E Noll
Clerk/Treasurer

Approved Minutes: *Joe Peternell* Date: November 9, 2021