

Eureka Township

Dakota County

State of Minnesota

Special Town Board Meeting
September 27, 2004

Chair Don Pflaum called Special Meeting of the Eureka Town Board to order at 7:02 p.m. The meeting started with the Pledge of Allegiance.

Town board members present were Don Pflaum, Kenny Miller, Connie Anderson, Dan Rogers and Mark Malecha. Clerk/ Treasurer Nanett Leine to record minutes. Township attorney Peter Tiede was also present.

Agenda: Krapu Conditional Use Permit- dog kennel

Supervisor Mark Malecha abstained from discussion and voting on this issue, due to a possible conflict of interest.

Supervisor Don Pflaum explained the procedures for the special meeting. A public hearing had been held on August 30, 2004, continued on September 7, 2004.

There are three options for the board: To approve the application as stated, to grant the CUP with conditions or to deny the issuance of the CUP. Once the decision is made the town board needs to develop finding of facts to support its decision.

New information was received from the Law Firm, Kelly Faucet, Bob Hegner, building inspector and pictures previously presented by Gloria Belzer. Don asked if there was any other new information that needed to be presented. Ray Kaufenberg presented verbal information that the proposed dog kennel is located on land that the county has identified as Priority Natural Area Land. He felt that locating the dog kennel on land that is identified as a priority natural area is a grossly inappropriate use of the land. Protecting the natural area is part of the Comprehensive plan. (This is a voluntary program; the Krapu's have chosen not to participate.)

A motion by Supervisor Kenny Miller: To deny the conditional use permit. Motion seconded by Supervisor Connie Anderson.

Roll call vote was taken: Supervisor Kenny Miller- yea
Connie Anderson- yea
Dan Rogers- yea
Don Pflaum- yea

The motion carried unanimously.

The town board stated their concerns over the proposed dog kennel that led to the denial of the permit. Comments were as follows:

- 50 dogs excessive.
- Location- too close to neighbors.
- Too intensive for local.
- Agricultural area, but several residents close by.
- Environmental issues.
- Transportation Issues/ safety.
- Land use appropriateness.
- Noise.
- Decrease in property value of surrounding properties.
- Scenic views of surrounding area- the town board did contribute to the Study of the Farmland Natural Areas- the township felt that these areas need to be protected. Vermillion River- important area, scenic view would be affected.
- Natural scenic area- affects the view.
- It is a permissive use not mandatory.
- Health, safety, general welfare of surrounding lands.
- Comprehensive Plan-
 - To promote safe, healthful, and aesthetically pleasing residential development in appropriate areas.
 - Protect fragile environmental systems from unnecessary impacts of future growth and development activities.
 - Maintain and enhance natural qualities for future generations to enjoy.
 - Protect surface waters and wetland areas to promote recreation opportunities, aesthetic qualities, natural habitat areas and ground water recharge.
- Parking lot run off.

Attorney Peter Tiede drafted Resolution No. 36 with the finding of the facts.

The town board took a short recess while the resolution was drafted. Meeting recessed at 7:22 pm, reconvened at 7:49 pm.

The town board reviewed each finding of facts, prepared by attorney Peter Tiede and changes and additions were made as needed.

A motion by Supervisor Kenny Miller: To approve resolution No. 36 with the finding of facts. Motion seconded by Supervisor Dan Rogers.

A friendly amendment by Supervisor Connie Anderson: To include “LET IT BE RESOLVED” (after the last finding of fact) Motion seconded by Supervisor Dan Rogers. The amendment was voted on and approved. The motion was voted on and approved.

A motion by Supervisor Connie Anderson: To adjourn. Motion seconded by Supervisor Kenny Miller.

Meeting adjourned at 8:58 pm.

The town board members signed to attest to voting in favor of denial. The resolution was signed by Supervisor Don Pflaum and attested by the clerk.

**EUREKA TOWNSHIP
RESOLUTION NO. 36**

WHEREAS, the Planning Commission of Eureka Township has received a request from Jeff and Andrea Krapu for a conditional use permit for a dog kennel to be located at 24315 Dodd Boulevard, Lakeville, MN.

WHEREAS, the Planning Commission has reviewed this application, and the presentation of Mr. and Mrs. Krapu.

WHEREAS, a public hearing was held on August 30, 2004, and continued to September 7, 2004. All those present and wishing to be heard had ample opportunity to speak.

WHEREAS, voluminous public input was received by the Planning Commission and the Town Board. Written and oral submissions in favor and against the proposed conditional use permit were provided. The Town Board has reviewed and taken this material into account, and Town Board members attended the public hearing held by the Planning Commission. The Planning Commission sent the matter on to the Town Board as shown in the Planning Commission minutes.

LEGAL STANDARD

The Eureka Township Zoning Ordinance No. 20, Section 6.51 describes the criteria for granting conditional use permits as well as the other pertinent sections of the Zoning Ordinance.

The Eureka Town Board has reviewed and considered the advice and recommendations of the Planning Commission relating to the conditional use permit request of Mr. and Mrs. Krapu.

The Eureka Township Zoning Ordinance under Section 4.5.9, Boarding, allows for the keeping, training or condition of animals owned by another for a consideration. Also, under Section 4.11, Commercial Agricultural is defined as “the use of 10 or more contiguous acres of land for production of field crops and livestock products, and the use of 40 or more contiguous acres of land for the production of livestock. For the purposes of this section, the terms field crops, livestock products and livestock shall include, but not be limited to: ... C. Livestock: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals including dogs, ponies, deer, rabbits, and mink.”

The Eureka Township Zoning Ordinance under Section 7.53, E, 2, lists as one of conditional uses in the Agricultural District of Boarding Animals. A dog kennel would fall into this use.

FINDINGS

The Town Board of Eureka Township makes the following findings regarding the Conditional Use Permit application submitted by Jeff and Andrea Krapu:

1. A fifty dog business in this location, relatively close to the neighbors is too intensive for the area, and too commercial a use for this neighborhood. The distance is inadequate for the locale.
2. Though this is an agricultural area, the proximity of neighboring residences makes this location inappropriate for a 50 dog kennel.
3. Though not dispositive, neighborhood opposition was significant to the Town Board's decision.
4. The evidence provided at the hearings shows that environmental concerns exist.
5. Another factor that contributed to the Board's decision was transportation safety.
 - A. Burdens on a shared driveway, excessive car traffic and customer trips would be incompatible with neighboring land uses and an undue burden on the neighbor with whom the driveway was shared. Moreover, the Town Board was concerned that it might, in the future, be called upon to resolve issues with the shared driveway, or be asked to take over the driveway by the landowners in the event of a dispute.
 - B. Commercial traffic related to the kennel would cause safety issues on the public road. Dodd Blvd. has inadequate shoulders, and the addition of more commercial traffic on that road is a safety concern.
6. The Board finds that a kennel of this size is not an appropriate land use for this area, which has a number of residences and is in a part of the township which has a growing residential population.
7. The evidence shown at the public hearing was that noise would be a nuisance to neighbors.
8. Uncontradicted evidence presented at the public hearing showed that neighborhood property values would be negatively affected.
9. The proposed kennel would have a negative effect on scenic views for both neighbors and others in the Township.

- 10. The health, safety and general welfare of surrounding lands would be negatively affected by the proposed kennel.
- 11. Runoff from parking lots was not addressed by the applicant, and was a concern for surface water, drainage and erosion issues.
- 12. The Board hereby further adopts those reasons in support of denial orally stated by Town Board members at the Town Board meeting on September 27, 2004, which meeting was recorded, and which recording forms part of the record in this matter.

NOW LET IT BE RESOLVED Based on the foregoing Legal Standard and Findings, the Conditional Use Permit application submitted by Jeff and Andrea Krapu is DENIED:

A copy of this Resolution shall be immediately sent to Mr. and Mrs. Krapu by the Town Clerk.

Dated this ____ day of _____, 2004.

All those in favor:

All those opposed:

Supervisor Malecha abstained

The Motion carries _____ or fails _____.

Attest:

Town Clerk

 Chairman