

Eureka Township

Dakota County

State of Minnesota

Eureka Town board Meeting
June 13, 2005

Call to Order

Chair Connie Anderson called the regular monthly meeting of Eureka Township to order at 7:00 PM. Present were Supervisors Connie Anderson, Gloria Belzer and Cheryl Monson. Clerk/Treasurer Nanett Leine, to record the minutes. Supervisor Mark Malecha arrived at 7:37 PM.

The meeting opened with the Pledge of Allegiance.

Approval of Agenda

A motion by Supervisor Gloria Belzer: To approve the agenda of June 13th as stated. Motion seconded by Supervisor Cheryl Monson. Motion carried.

Deputy Sheriff Presentation

A Sheriff Deputy was present to comment on recent patrol in Eureka Township. He addressed citizens concerns. An extra sheriff patrol has been added for the next 3 months. The deputy will patrol Empire, Eureka and Castle Rock Township 75 % of his time. This shift is from 2:00 pm till midnight, 5 days on / 4 days off.

Minutes:

A motion by Supervisor Cheryl Monson: To approve the Regular Town Board Meeting Minutes of May 9, 2005 continued May 10, 2005 with sentence structure corrections and correction to page 10- first paragraph should read: Dan Rogers "seconded" the amendment. Motion seconded by Supervisor Gloria Belzer. Motion Carried.

A motion by Supervisor Gloria Belzer: To approve the Special Meeting Minutes of May 16, 2005 continued May 24, 2005 as presented. Motion seconded by Supervisor Cheryl Monson. Motion Carried.

A motion by Supervisor Gloria Belzer: To approve the Special Meeting Minutes of June 6, 2005 minutes. Motion seconded by Supervisor Cheryl Monson. Motion Carried.

A motion by Supervisor Connie Anderson: To approve the Public Hearing Minutes of June 7, 2005. Motion seconded by Supervisor Gloria Belzer. Motion Carried.

The approval of the Special Meeting Minutes of June 7, 2005 will be tabled until the July 11, 2005 Town Board Meeting. A motion made by Dan Rogers needed to be added. Dan was not present to insure the correct content of this motion.

Treasurer's Report

Treasurer Nanett Leine reported that there is \$289.79 in checking, \$135,341.63 in the savings account and \$123,111.26 in savings (Former CD). Federal tax liabilities are \$863.37, MN tax liabilities are \$114.03 and State Surcharge liability for building permits is \$65.00.

Motion by Supervisor Cheryl Monson: To approve the treasurer report as presented. Motion seconded by Supervisor Gloria Belzer. The motion carried.

Bills and Receipts

Clerk/Treasurer Nanett Leine presented the following bills for payment:

Frontier	phone bill	\$108.67
Farm Road Services	road maintenance	\$10,463.00
Dakota Electric	electric bill	\$57.53
Culligan	monthly rent	\$23.38
ECM Publishers, Inc.	Legal Ads	\$77.15
Murnane, Conlin, White...	Legal Services thru April 30, 2005	\$2,927.17
Trophy House	plaque new town hall	\$103.31
Pro-Sweep Inc	Sweeping of blacktop roads	\$877.50
Dan Rogers	Payless Car Rental- road inspection	\$191.56
Eureka Sand And Gravel	class 5 gravel thru 5/31/05	\$14,403.52
Edward Kraemer & Sons	Limestone thru 5/31/05	\$1,399.95
Erik Leine	Mowing thru 5/31/05	\$140.00
Nanett Leine	Expenses 5/1/05 to 6/12/05	\$469.93
Nanett Leine	Payroll 5/1/05 to 6/12/05	\$2,049.78
Pat Fossum	2 hours cleaning plus bathrooms	\$60.03
Cheryl Monson	Payroll 12/15/2004 to 5/31/05	\$494.07
Kenny Miller	supervisor payroll 12/15/04 to 3/31/05	\$364.78
BeSure Inspection	Building Inspector	\$640.56
Connie Anderson	mileage 12/15/2004 to 5/31/05	\$101.66
Connie Anderson	supervisor payroll 12/15/04 to 5/31/05	\$1,209.78
Mark Malecha	supervisor payroll 12/15/04 to 5/31/05	\$392.49
Don Pflaum	supervisor payroll 12/15/04 to 3/31/05	\$397.10
Dan Rogers	supervisor payroll 12/15/04 to 5/31/05	\$489.45
PERA	Payroll 5/1/05 to 5/31/05	\$274.86
		\$37,717.23
Additional Bill added during meeting- Jim Larson- refund for overcharge		\$75.00
Total Bills for June 2005		\$37,792.23

The road maintenance bill submitted by Farm Road Services was discussed, the road contractor was asked to explain work performed as part of the road maintenance bill. He was asked to provide more details of work performed and location. The road contractor should not be obtaining quotes; this is a responsibility of the road supervisors.

A motion by Supervisor Connie Anderson: To approve the bills as presented. Motion seconded by Supervisor Gloria Belzer. Motion Carried.

Supervisor Mark Malecha arrived at 7:34 pm.

The following receipts were deposited in May:

- **Building Permits**

Eric Martin- Zoning permit- Ag building	\$50.00	Mark Nelson- Deck Permit	\$162.46
Jeff Ahlgren- Addition	\$1,859.17	Mitch Malone- Application Fee	\$25.00
Bob Holien- Application Fee	\$25.00	Mitch Malone- Deck Permit	\$162.46
Bob Holien- pole shed	\$469.26	Art Dubbles- Application Fee	\$25.00
Mark Nelson- Application Fee	\$25.00	Art Dubbles- Garden Shed	\$138.86

- **Conditional Use Permits**

Terri Petter- Spirit Ranch I Review	\$15.00	Ray Kaufenberg- Application	\$100.00
Terri Petter- Spirit Ranch II Review	\$15.00	Butch Hansen- Airstrip Review	\$15.00
Butch Hansen- Application	\$100.00	Mark Nelson- Airstrip Review	\$15.00

- **Other Receipts**

Terri Petter- Dog Kennel License	\$100.00	Jim Larson- Public hearing	\$100.00
Appleton- Envisioning CD	\$3.00	Mount Olivet- In lieu of taxes	\$1,350.00

Total Receipts in May \$4,755.21

A motion by Supervisor Mark Malecha: To approve May's receipts. Motion seconded by Supervisor Gloria Belzer. Motion Carried.

Check number 4529 did not show in the deposit register. This check was written to Murnane, Conlin, White and Brandt for \$2,820.06. The clerk will check into why does not show on the register.

Review of the budget

The town board reviewed the budget. In February the misc. expense column reflected a balance of \$975.55, the clerk was asked to check on the expenses in this category and to report back to the town board at the July town board meeting.

Planning Commission Possible Consent Agenda items

The following building permits were presented to the town board for approval:

Bob Crooks, 24645 Iceland Path (Property Id 13-24660-010-08) requested to change the size of a pole shed, he was granted a permit on January 10, 2005. The new size of the pole building would be 40' x 45' **Building permit #05-01-001.1 was issued at an additional cost of \$76.35**

Michael and Tina Stiles requested a permit for a 12' x 14' deck to their home at 10062

225th St W, (Property ID # 13-00600-020-50.) **Building permit #05-06-011 was issued for \$163.86**

Laura Hedelson- 9124 90th St E, Northfield requested a split of her property on 235th Street. (Property ID # 13-0100-010-50.) She originally asked for a split of 2 ½ acres on November 4, 2004. She is now asking to change the acreage to 3 acres. A new survey was presented.

A motion by Supervisor Mark Malecha: To approve the above planning commission items as presented. Laura Hedelson's split request approval is contingent on her signature on the split request form. Motion seconded by Supervisor Cheryl Monson. The motion carried.

A motion by Supervisor Mark Malecha: To add Bachman's sign permit as a consent agenda item. Motion seconded by Supervisor Cheryl Monson. The motion carried.

Todd Bachman presented a request for a sign permit for the new Bachman Garden Center located at 23004 Cedar Ave. South, Farmington. The permit includes a free standing sign 22' x 17'4" standing 30' tall and a wall mounted sign consisting of 4' tall structurally re-enforced bucks mounted to raceway, installed on architectural steel entrance columns.

A motion by Supervisor Mark Malecha: To approve Bachman's Garden Center sign permit. Motion seconded by Supervisor Cheryl Monson. The motion carried.

Contractor Time

Roads

Storm Damage

There was storm damage on Highview Ave- placed 468 tons of gravel at 250th Street and an approach at 24797 Highview Ave. A failed culvert was located at 24797 Highview Ave attributing to the road damage at the approach. The culvert is plugged and needs replacement. The cost of replacement is approx. \$400.00. There was discussion if this is a responsibility of the township or the land owner. The township is asking Mr. Leine to provide the new culvert; the township will pay the installation costs. The contractor needs written permission from the land owner before completing the project.

Ipava Ave has storm damage; it will take approx. 3 loads of gravel to fix the erosion along the edge of the road.

Erosion along 257th can be corrected with grading of the road.

Culvert Issues

265th St and Fairgreen, the culvert is collapsed 24" x 36". The culvert is functioning at this time. In July we will readdress this issue, after we examine our road budget.

Ditch drainage problem on 265th (Faith Farm) new approach- a culvert was not installed. No application for an approach permit. The landowner needs to be contacted, procedures for a new approach need to be followed; all expenses for a new approach are the landowners responsibility.

Denmark Ave near 267th St. (Woodstream Farm) this is in Castle Rock Township. Eureka Township maintains this portion of the road. Castle Rock Township needs to be contacted on this issue.

Culvert at 257th and Highview was opened up this spring. It needs to be flagged until ditch work is completed this fall.

Private driveway Grading

The town board received a complaint from a citizen. The road contractor has been seen grading private driveways, while grading township roads.

The town board asked that all side contracted jobs for grading be done at a separate time of grading township roads.

Brush and Tree Removal- Complaint Chalmers

The road maintenance contract states that the road contractor will be given direction from the town board regarding tree/ brush removal. In January the road contractor was directed to inspect the ditches working with the road supervisor, Dan Rogers. Brush and trees were to be removed from the road right of ways, the contractor would work under the direction of the road supervisors. The trees in question were removed in February. The road contractor stated that he had verbal permission to remove the trees. The property owners stated that they did not give verbal permission to remove the trees; they were fine with the removal of brush in the corner. The trees in question are in the right of way. Trees are property of the landowner, even if they are in the road right of way. There is conflict regarding direction given to the contractor. There are procedures to follow by state statute on tree removal in the road right of way. The property owner feels he should be compensated for the loss of trees. The town board will turn this claim over to the insurance company.

The proper procedures will be followed in the future on all brush and tree removal in the road right of ways. All trees to be removed will be marked. Written permission to remove these trees will be obtained before any work is performed.

Dust Control Quotes

DustMaster Plus .72 cents per gallon for Magnesium Chloride

Dustcoating Inc. .61 cents per gallon for Magnesium Chloride (approx. 27,000 gallons.)

Quotes include delivery and application.

A motion by Supervisor Mark Malecha: To accept Dustcoating's quote at .61 per gallon for Magnesium Chloride, to move forward with application as soon as possible. Motion seconded by Supervisor Cheryl Monson. The motion carried.

Ditch Mowing Quotes

Dale Kuchinka- Ditch mowing \$30 per mile- both sides of road 7 foot swath.

Cut entire Ditch \$85.00 per hour

Farm Road Services, LLP – Ditch mowing \$32 per mile- both sides of road 7 foot

swath.

A motion by Supervisor Mark Malecha: To accept Dale Kuchinka's quote at \$30 per mile for 7 foot swath now and in October, and \$85 per hour for mowing of entire ditch (grass only) in August. Motion seconded by Supervisor Cheryl Monson. The motion carried.

Ditch along Chub Lake Road

Supervisor Connie Anderson turned the meeting over to Supervisor Mark Malecha during discussion on this issue, due to a conflict of interest.

Chris Nielsen and Butch Hansen presented the town board with the application to the North Cannon River WMO for funding of the Chub Lake Road Ditch Project. The projected cost of the project is \$16,000.

A motion by Supervisor Cheryl Monson: To submit the application. Motion seconded by Supervisor Gloria Belzer. The motion carried.

Watch for Children Signs 235th St. between Highview and Dodd

Pete Storlie is requesting that Watch for Children signs be placed near a group of homes between Highview Ave and Dodd Blvd. There are several small children in the area.

Supervisor Mark Malecha: To direct the road contractor to place two "Watch for Children" signs on 235th St. according to MN Dot procedure and to heck on the possibility of placing a speed limit sign in accordance to MN Dot standards. Motion seconded by Supervisor Cheryl Monson. Motion carried.

Planning Commission Land use permits and Related Items:

Ron Ovans- Hanger at AirLake Airport

Ron Ovans representing the Civil Air Patrol requested a permit to build a hanger type structure at AirLake airport Lot 36 C. The building will be used for meetings of the Civil Air Patrol. The building will be a hanger type structure that could be used as a hanger in the future, if they vacate the building. He presented the town board with the lease from MAC and documents showing that this use is approved type of use by MAC. This will be a heated facility used for meetings once a week. The town board does not know if this use is allowed under the current ordinances within the township.

Supervisor Dan Rogers and Supervisor Cheryl Monson will contact MAC to gather more information on this issue. Ron Ovans will forward MAC contact information to the clerk.

CUP Applications

Butch Hansen- 2nd Farm Dwelling per qtr/qtr

The town board has not received the information back from their attorney on this Conditional Use Permit Application. It will be addressed at the July meeting.

Butch Hansen- Airstrip wetland issue

Brian Watson of Dakota County Soil and Water sent the town board a copy of the application by Charles Hansen for wetland replacement, relating to a condition under his conditional use permit application for his airstrip. The town board needs to approve the application and forward it back to SWCD. The plan calls for a 2 for 1 exchange, 7,825 square feet of area (0.18 acre) will be affected. 7,825 feet of marsh area will be created and a 7,825 foot buffer area. Conditions outlined by soil and water are on the attached document. Ref: 04-EUR-010. The town board added the following condition: After completion of the project, the site will be inspected in one year by the township's representative (SWCD)

A motion by Supervisor Mark Malecha: To approve the project with Dakota County Soil & Water Conservation District conditions as outlined in the letter from Brian Watson Reference: 04-EUR-010.

- Applicant contact the SWCD 72 hours prior to starting the project so wetland creation and buffer area can be flagged.
- Silt fence be installed along the runway portion that crosses the wetland to minimize further wetland disturbance.
- The airstrip and slopes are seeded within 10 days after final grading is complete.
- The buffer area is seeded with native seed mix including at least five (5) species with at least one forb.
- Applicant submits a National Pollution Discharge Elimination System (NPDES) Permit Application to the Minnesota Pollution Control Agency.
- Applicant is responsible of all other federal, state and local approvals

Additional condition set by the Eureka Town Board:

- After completion of the project, the site will be inspected in one year by the township's representative (SWCD)

Motion seconded by Supervisor Cheryl Monson. The motion carried.

Other related business

Jim Larson- variance

Jim Larson, 24720 Iberia Ave is requesting a 5 foot variance from the 100 foot structure setback from a township road.

The zoning board of adjustments and appeals met and held a public hearing regarding this variance application. The zoning board of adjustment and appeals forwarded their recommendation to the town board.

A motion by Supervisor Cheryl Monson: To grant the variance. Motion seconded by Supervisor Mark Malecha. Discussion followed.

The Eureka Town Board reviewed the recommendation submitted by the Zoning board. The Eureka Township Zoning Ordinance No. 20 states that variances may only be granted in the event that all of the following circumstances in 6.61 exist.

After reviewing and discussing the recommendations provided by the board of adjustment and appeals, a vote was taken. All supervisors voted against the motion.

The motion failed.

The Eureka Town Board denied Jim Larson's request for a 5 foot variance from the 100 foot structure setback from a township road.

See attached sheet: Findings of Fact Variance request by Jim Larson

Under Zoning Ordinance No. 20, (6.62 Procedure) the application fee for a variance is \$25.00. Mr. Larson was charged \$100.00 (the cost of a public hearing)

A motion by Supervisor Mark Malecha: To refund Jim Larson \$75.00. Motion seconded by Supervisor Gloria Belzer. The motion carried.

Agenda Items relating to Building Inspector

Agenda Items relating to the building Inspector are tabled until the July 11, 2005 Town Board meeting. Bob Hegner was present, but needed to leave before this business was addressed. Business included: 2. Bob Carlson, 3. Wat Lao 4.

Tousignant

Complaint against Conroy Farm

The town board received written comments from Building Inspector, Bob Hegner and Brad Becker, Soil and Water District. Brad Becker did a visual inspection from the road; the feedlot is manure pack, he did not see any manure stock piles. With no evidence of manure stockpile, there is no basis for a feedlot violation at this time. Bob Hegner also inspected the property there is a building down and could harbor rodents and such.

A letter will be sent to Tom Conroy asking him to attend the July Town Board Meeting for discussion on these issues.

Country Joe Racing

No new complaints at this time.

Complaint in Eureka Estates

A citizen in Eureka Estates has submitted a complaint of junk and junk vehicles in Eureka Estates; they feel the ordinance is not being enforced in the neighborhood. There is a construction trailer at 24240 Holyoke Ave that sets behind the garage that is occupied. The building Inspector will be asked to drive by and inspect the properties, for non compliance of the ordinances relating health and safety. Follow up July Town Board Meeting.

Follow up County- Bachman's Garden Center- turn lanes

The town board received a letter from Dakota County Transportation Department regarding turn lanes at Bachman's Garden Center. *See attached letter from Dakota County.*

Ordinances

The New Ordinances were adopted June 7, 2005 effective when published, on June 18, 2005. Ordinance Books are available for \$25.00; CD's are also available for \$2.00. The Ordinances are available for review at the Lakeville and Farmington

Library, the Dakota County Law Library and on Eureka Township website.

Old Business

A. Centurytel Fiber Co.

Contact has been made, follow up in July.

B. Town Hall Committee Report

Grass seeding- The committee did not find a donator for grass seed. Seeding will take place with weather permitting. Hydrant installation has been delayed, due to weather also.

Due to recent hail storms, the roof will be checked for damage, if necessary a claim will be submitted to the insurance company.

C. Old Town Hall

No one has shown interest in purchasing the old town hall.

No decision was made on what to do with the contents of the old town hall. They will be stored until a decision is made.

Three quotes have been received for the demolition and removal of the old town hall. The township will remove the concrete and fill the hole.

S.R. Stevens \$3,900

Philippe Bros. \$4,950

Hoffbeck Trucking \$4,900

Because the town hall is a public building an asbestos inspection needs to be done. The inspection fee is \$500.00.

A motion by Supervisor Mark Malecha: To accept S.R. Stevens quote for demolition of the old town hall. Motion seconded by Supervisor Cheryl Monson.

Discussion Followed. Mark Malecha rescinded his motion.

A motion by Supervisor Mark Malecha: Move that we go forward with an asbestos evaluation, subject to those findings that S.R. Stevens removes the building. Ant asbestos issues will be dealt with at that time. Motion seconded by Supervisor Cheryl Monson. Motion carried.

D. Town Hall Use Committee

Four citizens have expressed interest in being appointed to the Town Hall Use Committee:

Wally Bohrn, Chris Nielsen, Gary Smith and Butch Hansen.

A motion by Supervisor Mark Malecha: To appoint Wally Bohrn, Chris Nielsen, Gary Smith and Butch Hansen to the Town Hall Use Committee. Motion seconded by Supervisor Gloria Belzer. Motion carried. The committee's report will be at the March 2006 Annual Town Meeting.

E. Restroom Service

Swisher Hygiene, the restroom cleaning service the township had been using is having issues in Minnesota. At this time there is no service in Minnesota. Pat Fossum, the person hired to do general cleaning is willing to clean the bathrooms for the same rate of \$25.00 per month.

A motion by Supervisor Mark Malecha: To hire Pat Fossum for cleaning of the bathrooms. Motion seconded by Chair Connie Anderson. Motion carried.

F. Invest in CD's

CD rates were checked at Castle Rock Bank and Wells Fargo. The township will purchase 5 CD's: 5 yr \$40,000 (designated for Town Hall) 4 yr \$25,000, 3 yr \$25,000, 2 yr \$25,000 and a 1 yr \$25,000. Total amount invested \$140,000. The clerk will purchase the CD's.

A motion by Supervisor Mark Malecha: To invest in 5 CD's, \$40,000 at 5 yr and \$25,000 increments at 4 yr, 3yr, 2yr and 1 yr. at the Castle Rock Bank. Motion seconded by Supervisor Gloria Belzer. Motion carried. The clerk will purchase the CD's.

F. Annexation Subcommittee Report

The committee completed work sessions with Lakeville Staff, they also met with Regan's (Hat Trick Investments) the subcommittee reported on their conclusions. Lakeville Staff reported to their council on these conclusions. A letter was received from the City of Lakeville in response to the subcommittee conclusions. *See attached letter from the City of Lakeville.*

The subcommittee is recommending that the township get an attorney's opinion on the annexation offer.

The subcommittee will continue to work on the airport annexation issues.

It was agreed upon that professional services will be needed to address annexation issues. The planning commission is researching planners. MAT will be contacted for information on agreements between cities and townships regarding Industrial and development of properties. Further research will be conducted over the next month for continued discussion at the July, 11, 2005 Town Board meeting.

G. Dakota County Sheriff Deputy Update

The township received a letter from Commissioner Joe Harris, thanking the township for their support. He is in negotiations regarding the 2006 budget.

Roads- additional information

County Road 9, 17 and 86 have all been approved for overlay this year.

New Business

Policy Issues

Tabled till later date.

July Newsletter

Materials for newsletter need to be submitted. Supervisor Gloria Belzer will address board happenings.

Other Business

Clerk/ Treasurer Presentation

See Attached sheet for information

MAT Summer Short Course in July. Jeannie Nordstrom is requesting to attend Election training for Clerks.

A motion by Supervisor Mark Malecha: To approve summer short course training for Deputy Clerk/ Treasurer Jeannie Nordstrom. Motion seconded by Supervisor Cheryl Monson. Motion carried.

The clerk requested that Comp hours may be accumulated, to be used when she is on vacation. The clerk is allowed 30 paid hours per week. The board felt that extra hours worked during a particular week may accumulate as COMP hours, to be used by the clerk for future payroll.

A motion by Supervisor Mark Malecha: To adjourn. Motion seconded by Supervisor Cheryl Monson.

Meeting adjourned at 12:03 am.



Transportation Department

Mark J. Krebsbach, P.E.
Transportation Director/
County Engineer

Dakota County
Western Service Center
14955 Galaxie Avenue
3rd Floor
Apple Valley, MN 55124-8579

952.891.7100
Fax 952.891.7127
www.co.dakota.mn.us

June 7, 2005

Nanett Leine
Clerk/Treasurer Eureka Township
P.O. Box 576
Lakeville, MN 55044

Dear Ms. Leine:

I am writing to respond to your June 1, 2005 letter regarding turn lanes on Cedar Avenue for the Bachman's Garden Center in Eureka Township. A permit was issued on April 2, 2004 for the driveway to the new garden store.

The application did not show either northbound right turn lane or by-pass lane for southbound traffic. The Transportation Department reviewed the request and determined the sight lines in the area were adequate for a driveway at this location. Further, by-pass lanes to allow traffic to move around a vehicle waiting to make a left turn into Bachman's would be more problematic than beneficial due to the location of several driveways on the other side of the road. In consideration of the operation and adjacent facilities, the driveway request was approved as submitted by the owner.

We do believe this was the best location and configuration for the area and this use. If there are specific problems occurring, we would be happy to discuss these concerns with the Town. Please call me at (952) 891-7178 to discuss any questions or issues.

Sincerely,

A handwritten signature in cursive script that reads "Kristi M. Sebastian".

Kristi M. Sebastian, P.E., P.T.O.E.
Traffic Engineer

POTENTIAL TERMS OF AN ORDERLY ANNEXATION AGREEMENT FOR
HAT TRICK INVESTMENTS PROPERTY IN EUREKA TOWNSHIP

1. Lakeville will provide reimbursement to Eureka Township for 100% of the taxes annexed property at the time of annexation to be paid to the Township for a period of six (6) years after annexation.
 - This would amount to \$711 x 6 years or \$4,266 over a six year period.
2. Lakeville will provide reimbursement to Eureka Township for 50% of the building permit fees it collects for development occurring on the portion of the Hat Trick Investments property located within the Township for a period of six (6) years after annexation.
 - Assuming half of the annexed area would develop over the six year period, approximately \$100-125,000 in building permit revenue would be generated. The Township's share of this revenue would be \$50-\$62,500 over six (6) years.

If this property were to be annexed by ordinance under the 60 acre provision, the total reimbursement to Eureka Township would \$1,778 over a six (6) year period.

FINDINGS OF FACT- VARIANCE REQUEST BY JIM LARSON

This matter was considered at a public hearing by the Eureka Township Zoning Board of Adjustment and Appeals on May 19, 2005. The members of the Zoning Board are Connie Anderson, Dan Rogers, Gloria Belzer, Mark Malecha and Cheryl Monson. Mr. James Larson appeared on his own behalf and in support for his request. Based on information provided Mr. Larson, the information provided by the Planning Commission, the information provided by the Zoning Board of Adjustment and Appeals and public hearing on May 19, 2005, as well as the applicable law and zoning ordinances and the knowledge of the Town Board concerning this matter and the practices of the Township of its ordinances, the Town Board makes the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

1. On May 2, 2005 Mr. James Larson, 24720 Iberia Ave, Lakeville, Minnesota, Property ID #13-24660-010-11, requested a variance for an addition to his garage attached to his house.
2. If the addition is located as presented, the setback from the road will be 95 feet. The required setback per the zoning ordinance is 100 feet.
3. Mr. Larson is asking for a 5 foot variance from the 100 foot structure setback from a Township road.
4. The Eureka Township Zoning Ordinance No. 20 states that variances may only be granted in the event that all of the following circumstances in 6.61 exist.
5. The Zoning Board of Adjustment and Appeals held a public hearing regarding the request on May 19, 2005. A copy of the Public Hearing Minutes is attached hereto as Exhibit 1.
6. The Zoning Board of Adjustment and Appeals forwarded their finding as outlined below under Criteria A thru E from Zoning Ordinance No. 20 Section 6.61
7. The Town Board Met at their Regular Scheduled Town Board Meeting on June 13, 2005 to consider Jim Larson's request. The Town Board finding as outlined under Criteria For Granting Variances, Zoning Ordinance No. 20, Section 6.61 Criteria A thru E.

Criteria A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape topography, or other circumstances over which the owners of property since enactment of this Ordinance have had no control.

Zoning Board: There were floodplain restrictions on his property when he built his house.

Town Board: Landowner did not provide supporting information on floodplain restrictions on the property stating setback requirements. A permit was granted in the past for additional garage space. There appears to be adequate building area within the lot to build the addition without a variance.

No findings of an undue hardship.

Criteria B. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

Zoning Board Other property owners in Eureka Estates were allowed the placement of structures within 100 setback requirement without a variance.

Town Board The town board does not feel by denying the variance the applicant was denied rights enjoyed by other property owners. The town board is obligated to follow its ordinances in granting or denying this variance.

Criteria C. That the special conditions or circumstances do not result from the actions of the applicant.

Zoning Board The floodplain restrictions were not in his control

Town Board The applicant did not provide any information regarding restrictions on the location of his home at the time it was built. The floodplain restrictions were based on depth of the structure. The garage is higher than the lower depth.

Criteria D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to others of other lands, structures or buildings in the same district.

Zoning Board By not granting this variance the zoning board of adjustment and appeals feels that the applicant would be discriminated against in the lack enforcement on the 100 foot setback requirement in the Eureka Estates District.

Town Board By granting this variance, the Town Board would confer on the applicant a special privilege as all the

circumstances required to grant a variance do not exist.

Criteria E. The variance will not allow any use that is not permitted under the Ordinance for a property in the zone where the affected applicant's land is located.

Zoning Board Garages are a permitted use.

Town Board Garages are a permitted use.

CONCLUSIONS OF LAW

1. Mr. James Larson requested a 5 foot variance which may only be granted in the Event that all of the following circumstances exist.
 - a. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape topography, or other circumstances over which the owners of property since enactment of this Ordinance have had no control.
 - b. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
 - c. That the special conditions or circumstances do not result from the actions of the applicant.
 - d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to others of other lands, structures or buildings in the same district.
 - e. The variance will not allow any use that is not permitted under the Ordinance for a property in the zone where the affected applicant's land is located.
2. The variance request does not meet all the circumstances required by Section 6.61 Zoning Ordinance No. 20.

ORDER

The Eureka Town Board denies Mr. James Larson's request for a 5 foot variance from the 100 foot structure setback from a township road.

EUREKA TOWNSHIP BOARD

Date: June 13, 2005

Connie Anderson, Chair

Attest: Nanett Leine, Town Clerk