

Deerwood Township  
Public Hearing  
Petition for Swanson Road Cartway  
Deerwood Town Hall  
May 27, 2025  
7:00pm

Board of Supervisors  
Scott Brix - Supervisor  
Josh Thompson - Vice Chairman  
David Gray - Chairman

Clerk - Carol Pundt  
Treasurer - Amy Donovan  
Road Overseer - Steve Reilly

Present: Scott Brix, David Gray, Josh Thompson, Carol Pundt

Absent: None

Public Attendance: See attached Sign Sheet

David Gray called the public hearing to order at 7:02pm with the Pledge of Allegiance. A motion was made by Josh Thompson and seconded by Scott Brix to approve the agenda.

Affidavits of Service of Notice and Petition upon the affected property owners along with the survey were reviewed by the Board. All paperwork presented meets all requirements for the hearing.

On-Site Inspection: The meeting was continued at the site at 7:05pm. Everyone returned to the Town Hall at 7:30pm.

Petitioner's Comments: Blake Lubiness, the attorney representing R & R Landscaping and Construction, told those in attendance the petitioner's request is clear the parcel is land locked. Referenced exhibit A. The existing Swanson Road is the only best cost-efficient route for access to the property. Discussion at the site properly brought out the cartway can only have a two-rod access. The petitioner will amend the documents and resurvey and stake out the property. There is no other means to access the property but over the property of others. As a clarification, David Gray stated that Swanson Road is the most efficient way to access the property. Swanson Road is not the only way to access the property.

Public Comments: Kelsay Murray, attorney representing Deerwood Storage, LLC, told those in attendance. The owners have two different businesses operating out of the parcel. There is a storage facility and also an excavating company where equipment is stored. The owners have been at this location since 2019. A nice piece to this property is that it is private. There is security in the fact the storage facility is not along or visible from the highway. Swanson Road is a private road. Not everybody can run up and down the road or having access to the storage facility. With that situation comes the issue that if we open up the road and there is more access to the parcels that are coming, what kind of security measures are my clients needing to have to put on their property that they did not need before. Additional gates have not been needed because people

were not allowed (trespass) to go down Swanson Road unless they were going to the storage units. There is a gate at the access to Hwy 6. It is not a gate that needs to be shut every day and opened by individuals that are coming and going. Josh Thompson asked the question of whose property the gate sits on. Kelsay Murray told those in attendance there are two entrances to the land locked property. One is at the beginning of Swanson Road and the other is across from the storage facility. David Gray asked the question, "How often has the gate been closed". Jerry Huchison replied, "not very often". Individuals do not have legal access to the storage facility, but the access is unimpeded. There have been issues in the past with trespassers. Which have been reported to Crow Wing County in the past. Security is a concern. When the land locked parcel was being surveyed individuals doing the work did not do so with permission from the owners of Swanson Road.

Kelsay Murray told those in attendance the Swanson Road is a beautiful, tarred road. The road was a large cost years ago and will eventually need to be resurfaced in the future. This is partially a maintenance question, but also a damages question. What is it that the petitioner is receiving. It is a very nice roadway. We also talked about the width of the road. We are sticking with a 33 foot wide cartway. The resolution will be amended to reflect the 33foot width. Kelsey Murray went on to say there is also a question about a turn-a-round at the end of the road. Generally speaking this would be necessary if it was a new township road. The survey does not show any kind of a turn-around area. David Gray mentioned that a cul-de-sac/tur-a-round would be a question that would come up if the Township was to annex the road to make it a township-maintained road. Also, whose property would need to be annexed. Scott Brix made the point that it is important for the township board to listen to your concerns. The Board cannot stop this cartway petition request. Agreed? David Gray agreed with what Scott said. The township attorney also agreed with that statement. Samuel Clausen, the attorney representing Deerwood Township told those in attendance the only way the township could decline this cartway request petition would be if there was an alternate route that would be in the public's best interest, less disruptive and the most direct route. David Gray summarized by saying "which means the alternate route would need to be comparable or better than the proposed cartway route". We cannot vote "no" unless someone could supply us an alternate route. We need to be aware of an alternate route to say "no". Scott Brix concurred that there may be an alternate route, but it would be a very costly route. The alternate route would be approximately a mile long driveway crossing a creek. There was discussion regarding that area to be registered as a wetland with some disagreement. Scott Brix went on to say that if the alternate route is a better route, how do we get someone to establish that. Establishing the best route for the cartway is up to the Township Board to make that decision at tonight's hearing. Scott Brix went on to say, "we do not have the information on the alternate route". That is the problem. Someone from those present said, "that would be the burden of the petitioner". The alternate route should have been surveyed for tonight's meeting. David Gray reiterated the petitioner is requesting an action. The petitioner is not under the burden of examining all routes other than what he is proposing. Samuel Clausen agreed with David Gray's statement.

Teresa Swanson told the Board that she holds the contract for deed on Erica Sadlo's property. That property is pending sale with a closing date of June 30, 2025. The new owners are not aware of the activities taking place at tonight's meeting. She asked the Board for sufficient time for the new property owners to be aware of the pending cartway decision. Scott Brix asked a question about the feasible access from the back of the property.

Blake Lubiness said the petition was filed back over a month ago. Adequate notice was given to the property owners. Today is when alternate routes can be discussed. I believe if an alternate route was going to be discussed there was time to figure that out by anybody that wanted to present evidence to be considered. That time is today. While I can understand listening to the comments, to that point. What the petitioner's attorney and town attorney have discussed for damages is for an appraiser to determine damages are booked until the Fall. To find a person to assess damages is an important part of the determination at tonight's meeting. The folks that are having their land used for this cartway deserve compensation for that. A person was found today that can potentially do the appraisal. The petitioner is looking for a decision on the actual establishment of the cartway. Then to table the issue of damages to a later time. That should give plenty of time for the buyers to be appraised of the situation in making their decisions.

David Gray discussed how the damage appeal process would work. The petitioner would have to pay for his attorney and the attorney for the township along with additional costs to the township. Jerry Hutchison told those in attendance he is not totally opposed to the cartway petition because he feels it is probably the best route. He would prefer it to be the alternate route, but he would like to be compensated for having to add the security gate for the storage business which would fall under damages. David Gray said that would fall under after the property was appraised, then the Board would vote on what the damage amount would be. Terry Swanson is the owner of the first parcel. She found out about this hearing a week ago. Because Jerry Hutchison told her about the meeting. Terry had not received notice of the petition hearing. Don Swanson was the original property owner. He built Swanson Road. The gate at the beginning of the road was to keep people off the property.

Samuel Clausen pointed out a cartway is two rods wide and not more than  $\frac{1}{2}$  mile in length. This information is straight from the statute.

It was pointed out the access from Anne Lake Road would be around  $\frac{3}{4}$  mile long. David Gray pointed out the proposed cartway falls within the  $\frac{1}{2}$  mile in length specifications. The alternate route mentioned is outside the specifications.

Teresa Swanson voiced a concern regarding increased traffic because she is the first property owner on the road. A single family home is on the property with small children. Also, what is the intention of the landlocked property owner for the development of the property. Will there be single family homes. The property is zoned rural residential. The discussion went off topic to future building plans. David Gray told the Board damages were not be awarded tonight.

Samuel Clausen told the Board a factor to take into consideration if the decision is in the public's best interest in determining the cartway's most direct route. Also considered is the most direct route in the public's best interest. David Gray told the Board that the township has to grant access to the property and how do we do that. No one wants to grant access through their property.

Don Swanson wanted to know the cost of maintenance of an asphalt road. Scott Brix said in his opinion he would not accept Swanson Road as a township maintained road as is. It costs around \$120,000 per mile to reclaim an asphalt road at today's pricing.

Consider Determining Eligibility and Conditionally Granting Road Cartway: Samuel Clausen pointed out the Board must consider there is sufficient property, whether there is access to the property, is there a legal right to pass through other's property, which route is less disruptive and in the public's best interest, the access needs to be less than  $\frac{1}{2}$  mile. David Gray stated, "the routes seem to be equally disruptive, but disruptive to different parties". The proposed route is the most direct. Samuel Clausen felt the Board met all three elements. David Gray asked Samuel Clausen if he felt the Board has met all the legal requirements to make a decision. Samuel Clausen told the Board he was attending the meeting to give advice only.

David Gray told the Board he felt the requirements to grant a cartway have been met and the Board is compelled to do so. Josh Thompson said he felt bad for the owners of the properties, but the Board's hands are bound to make a decision. Scott Brix said we will have one group mad and one person mad at the Board. He is sorry. The question was asked, "how many acres is each lot"? Blake Ludiness answered the question by saying, "the lot in total as it stands today is 37.89 acres".

Scott Brix mentioned that the damages portion of the petition would be agreed on at a later date. He wanted to know that was agreed on. R & R Landscaping cannot use the cartway until damages have been paid. Damage is an integral part of the cartway petition decision, but, cannot be executed tonight. Once damages are determined by the Board there are 40 days to appeal the decision. It is the petitioner's position, and the town attorney would not be a final order. Even then the appeal process would not start until damages are established by the township. Under advisement the Board take into account the appraiser's value and any other damage considerations. The question was asked to the landowners if they feel they have been treated fairly tonight. No one opposed the question. One thing to determine who is going to take care of the cost in the future and compensate for Swanson Road. David Gray said compensation would be part of the assessed damages which will be determined at a future date. Jerry Hutchison told the Board Mr. Rono agreed to put a covenant of cost sharing for the future maintenance of the road at 20%. David Gray told those present that they also have the option in the future to petition the Township to accept the road as a township maintained road. Not saying the township would accept the road, but that is a consideration. There should be a policy on the township website regarding the township taking over the road. Carol Pundt said in the process of having the website master change she has not been able to find any road information on the website. She asked David Gray to look to see if he would be able to find the information on the website or if it needs to be added. Discussion of damages will be postponed until an appraiser is hired to make that determination. The appraiser will be doing an appraisal of the land. The Board will be taking into consideration all things discussed tonight. Scott Brix wanted to know if Mr. Rono could work out something with Jerry Hutchison regarding security fencing before there is any building. Blake Luginess told Scott Brix the security fencing negotiations have been discussed between Mr. Rono and Jerry Hutchison. Nothing has been agreed on. That is why there is a petition hearing tonight. Neither Mr. Rono nor Blake have closed any doors. Scott Brix asked the question, "what happens if it is two years before any lots are sold. People will be coming in and out of Swanson Road." There are concerns over security. Can we easily resolve the problem now? David Gray said if it was easily resolvable it would have been done by now. The road order cannot be executed until the damage has been determined by the Board. We have gone as far as we can with this tonight under the circumstances. Does anyone want to dispute that? Blake Lubiness asked in his clients interest could we get the redraft by doing a preliminary drafting of the cartway to establish a legal cartway but it cannot be used

until damages are determined. Pass a motion saying we have the intent to establish the proposed cartway but will not act on it until damages are determined.

David Gray made the motion which was seconded by Scott Brix that it is the Board's intent to establish the proposed cartway along the proposed route which was discussed this evening on the site visit provided the damages are assessed and no other issues would arise. All voted in favor of the motion. David Gray-yes; Josh Thompson-yes; Scott Brix-yes. Motion passed unanimously.

A future date will be set to award damages at the June Monthly Board meeting.

A motion was made by David Gray and seconded by Josh Thompson to adjourn the meeting at 8:14pm.

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