



Cass County  
Planning Commission/Board of Adjustment

January 12, 2015

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting January 12, 2015 in the meeting room of the Cass County Land Department in Backus. The field inspection for the meeting was conducted January 5, 2015 with PC members Fitch, Froehlig, Kostial, LaPorte, Pehling and Sundberg along with ESD staff Berg and Fairbanks in attendance.

Sundberg called the meeting to order at 9:30 a.m.

Members present: Fitch, Froehlig, Kostial, LaPorte, Moore, Pehling and Sundberg.

Staff Present: Berg, Fairbanks and Ringle.

Citizens Present: Stephen Gerger, Victoria Gerger, Dave Johnson, Ken Quass, Ken Peters, Arlene Schmitz and Brenda Silgjord.

MS/P Fitch/LaPorte to approve the minutes of the 12/08/14 PC/BOA meeting as presented.

Variance

Gerger, Stephen & Victoria, Barclay Township on property described as Part of Part Of Govt Lot 1, Section 9-138-29, PID #02-009-1101 located at 1292 Larrup Trail SW. An application submitted to expand an existing non-conforming structure with a 10 feet x 19 feet addition. The structure is non-conforming because it is located 50 feet from the lake. The relevant portion of the Land Use Ordinance (02/15/13) are Section 800 which establishes the variance review criteria, Section 1115.3 which establishes the non-conforming structure expansion criteria and Section 1126.1 which requires structures to be setback 100 feet from a lake classified Recreational Development (RD). The property contains 3.8 acres riparian to Horseshoe Lake (RD).

17 notices of the application were mailed. One response offering no objection to the approval of the application was received. The application was reviewed with the applicants with considerable discussion devoted to identify the residential structures located on the property as primary or guest quarters. In addition one notified resident was in attendance to object to approval based upon "water quality" concern.

MS/P Fitch/Pehling to approve the size and location of the expansion of the non-conforming primary residence located upon PID #02-009-1101 upon review of the criteria contained in Section 800 of the Land Use Ordinance (02/15/13) and in M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. As confirmed by the applicants and accepted by the Planning Commission the non-conforming residential structure located at less than 100 feet from the lake is designated as the primary residence for current and future land use activity.
2. As confirmed by the applicants and accepted by the Planning Commission the residential structure located at more than 100 feet from the lake which was constructed in 2003 is designated as guest quarters for current and future land use activity.
3. Neither the primary residence nor the guest quarters were permitted or constructed by the applicants.
4. The property became a lot of record in 2000 and does not comply with the minimum guest quarters lot standard for lot width.
5. Both structures are considered non-conforming by ESD.
6. The permit archive contains no record of the original construction but it can be assumed that it occurred prior to the adoption of land use regulation.
7. The non-conforming residence, 50 feet from the lake, could be replaced by permit as allowed by statute and ordinance at existing footprint and volume.
8. Most of the proposed new construction will be located on the non-lakeside of the residence.
9. The residence expansion seems a reasonable use of the property when taking into account the size and configuration of the structure which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
10. The proposed residence expansion is buffered to neighboring property which therefore does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
11. Because the surrounding area is made up of similarly sized lots with structures similar in size and scale, there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed lot configuration.
12. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: If conditions are included no permit to implement shall be issued until:

1. ESD required and approved erosion control is installed.

2. If shoreline vegetative enhancement or restoration is required by ESD or the Planning Commission, a written plan for suitable vegetation shall be approved by ESD and agreed to be implemented by applicant.
3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other conditions as set forth.

No site preparation or building construction shall be commenced until issuance of a land use permit. Commencement prior to issuance of a land use permit may result in withholding, withdrawal or revocation of a land use permit until inspection by ESD and correction of any circumstances in violation of laws, ordinances or the terms of this variance. Deposit of financial assurance as determined by ESD to secure correction of violations and completion of other measures may be required by ESD.

Conditions:

1. The footprint of the non-lakeside expansion shall not exceed 10 feet x 20 feet.
2. The footprint of the fireplace expansion shall not exceed 4 feet x 6 feet.
3. The south end gable may be extended not more than 24 inches.
4. Approval does not allow or imply approval that the structure to be expanded can be removed by demolition or any other method from the site nor shall the structure to be expanded be reduced to "one wall".
5. Any material resulting from demolition or construction not reused or recycled must be disposed of in a permitted facility.
6. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
7. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
8. The guest quarters shall not be expanded except by approved variance.
9. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
10. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 01/12/17.

COMPLIANCE WITH ALL CONDITIONS IS REQUIRED. FAILURE TO COMPLY WITH ANY CONDITION SHALL RESULT IN A VIOLATION AND SUBJECT THE APPLICANT TO ENFORCEMENT PROCEDURES WHICH MAY INCLUDE, BUT NOT LIMITED TO, REVOCATION OF THIS VARIANCE, REMOVAL OF VIOLATIONS AND MITIGATION.

Peters, Kenneth, Beulah Township on property described as Lot 6, "Morrison Lake Addition", Section 29-139-25, PID #04-431-0060 located at 517 Pine Inn Road NE. An application submitted to expand the existing non-conforming residence with a 14 feet x 20.5 feet addition.

The residence is non-conforming because it is located 59 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) are Section 800 which establishes the variance criteria, Section 1115.3 which establishes the non-conforming structure expansion criteria and Section 1126.1 which requires structures to be setback 100 feet from a lake classified Recreational Development (RD). The parcel contains .59 acre riparian to Morrison Lake (RD).

29 notices of the application were mailed. One response supporting approval of the application was received. The application was discussed and reviewed with Mr. Peters.

MS/P LaPorte/Kostial to approve the application for expansion of the residence located upon PID #04-431-0060 as submitted upon review of the criteria contained in Sections 800 and in M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. The property became a lot of record in 1948.
2. The existing setback from the lake of the residence is less than the required 100 feet.
3. There is no record in the permit archive of the original construction although based on lake setback it was more than likely prior to the adoption of land use regulation in 1972.
4. The proposed addition to the residence will be parallel to the current lake setback which will not increase the existing encroachment to the lake which seems reasonable when taking into account the current setback and configuration of the residence which therefore does not necessarily contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
5. The proposed structure expansion to which there is no evidence or information to establish that it will contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
6. Because the surrounding area along Morrison Lake contains similar lots and structures, there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed lot configuration.
7. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: If conditions are included no permit to implement shall be issued until:

1. ESD required and approved erosion control is installed.
2. If shoreline vegetative enhancement or restoration is required by ESD or the Planning Commission, a written plan for suitable vegetation shall be approved by ESD and agreed to be implemented by applicant.

3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other conditions as set forth.

No site preparation or building construction shall be commenced until issuance of a land use permit. Commencement prior to issuance of a land use permit may result in withholding, withdrawal or revocation of a land use permit until inspection by ESD and correction of any circumstances in violation of laws, ordinances or the terms of this variance. Deposit of financial assurance as determined by ESD to secure correction of violations and completion of other measures may be required by ESD.

Conditions:

1. The dimensions, location and configuration of the structure expansion shall not vary from that submitted with the application dated 12/02/14.
2. The height of the structure shall not exceed existing height to peak.
3. Approval does not allow or imply approval that the structure to be expanded can be removed by demolition or any other method from the site nor shall the structure to be expanded be reduced to "one wall".
4. Any material resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
5. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
6. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
7. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
8. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 01/12/17.

COMPLIANCE WITH ALL CONDITIONS IS REQUIRED. FAILURE TO COMPLY WITH ANY CONDITION SHALL RESULT IN A VIOLATION AND SUBJECT THE APPLICANT TO ENFORCEMENT PROCEDURES WHICH MAY INCLUDE, BUT NOT LIMITED TO, REVOCATION OF THIS VARIANCE, REMOVAL OF VIOLATIONS AND MITIGATION.

Other Business:

Discussion with Sylvan Township representatives in regard to land use regulations of mutual interest to Sylvan Township and Cass County.

MS/P LaPorte/Froehlig at 11:53 am, to adjourn.

P. Fairbanks