



Cass County
Planning Commission/Board of Adjustment

February 9, 2015

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting February 9, 2015 in the meeting room of the Cass County Land Department in Backus. The field inspection for the meeting was conducted February 2, 2015 with PC members Fitch, Froehlig, Kostial, LaPorte, Moore, 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: Mark Beckler, M Joe Datzman, Jeff Hagan, Pam Hendrickson, Dave Johnson, Harvey Schlichting, Rose Schlichting, Dan Widell, and Kathy Widell.

MS/P Kostial/Froehlig to approve the minutes of the 01/11/15 PC/BOA meeting as presented.

MS/P Moore/Fitch to unanimously select Susan Sundberg Chairperson 2015.

MS/P Moore/Fitch to unanimously select Ken Kostial Vice-Chairperson 2015.

Variance

Beckler, Mark, Pine River Township on property described as Wly 660 Feet of Sly 542 Feet of SW SE Excluding The Sly 264 Feet of W 330 Feet Thereof, Section 8-138-30, PID #31-008-4303 located at 4162 8th St SW Part of SW SW, Section 8-138-30, PID #31-008-4308 located at 4164 8th St SW. An application submitted to be allowed to retain the existing lot width for 4303 & 4308 individually at approximately 165 feet. The relevant portions of the Land Use Ordinance (02/15/13) are Section 800 which establishes the variance review criteria and Section 1113.2 which established the minimum non-shoreland lot standards. Newly created RR-2.5 lots are required to contain a minimum lot width of 200 feet. Lot width non-riparian is described as: "The shortest distance between side lot lines as measured at the midpoint of the longest axis". The combined lots contain 6.22 acres (RR-2.5).

16 notices of the application were mailed with no responses received. The application was reviewed with Mr. Beckler. Two persons in attendance questioned the driveway easement as to who is responsible for maintenance which is a private responsibility.

MS/P Froehlig/Kostial to approve the existing lot width for PID #31-008-4303 and PID#31-008-4308 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. The property became lots of record in 2014 as the result of a divorce settlement.
2. Both lots comply with the minimum lot size of at least 2.5 acres.
3. Each contains a primary residence.
4. Although the lot width does not comply with the technical non-riparian lot width requirements, the configuration seems a reasonable use of the property when taking into account the size and configuration of the property along with the location of the residences which prohibits strict compliance with the lot width standard 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.
5. The lots comply contain more than the required square footage, have access to a public road and both contain a primary residence 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.
6. 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.
7. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

Graco Minnesota Inc, Inquadona Township on property described as Govt Lot 4, Section 35-141-27, PID #18-035-2400 located at 5479 Snowball road NE. An application submitted to be allowed to construct a residential structure on the property which already contains six residential structures. The relevant portions of the Land Use Ordinance (02/15/13) are Section 800 which establishes the variance criteria and Section 1120 allows for one primary residence per single family residential lot. The parcel contains 20.76 acres riparian to Lower Trelipe Lake (RD).

16 notices of the application were mailed with no responses received. The application was discussed and reviewed with the site manager Mr. Datzman.

MS/P Fitch/Moore to approve the application for an additional residential duplex structure to be located upon PID#18-035-2400 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. Graco has utilized the property for employee recreation and company business meetings since the 1960's.
2. The 20.76 acre parcel currently contains 6 residential structures, and with one exception, of which there is no record of permit and based appearance were more than likely constructed prior to land use regulation.
3. Based upon appearance all structures seem well maintained in excellent condition.
4. Except for the caretaker, the property is vacant during the winter.
5. The property is not available or open to the general public.
6. The structure is a reasonable use of residential property and located as proposed, subject to the conditions, will 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.
7. The size of the structure is not excessive, will comply with lake setback and because of the size and configuration of the property will not be obtrusive to the neighborhood and 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.
8. The structure will not be excessive in size, extreme in scale and not substantially different from other residences along Lower Trelipe Lake and therefore there is no reason to conclude that that area land use will be negatively affected or altered.
9. There is no reason 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 structure, which will be a duplex, shall not exceed 3,888 square feet.
2. The structure shall be at least 100 feet from the lake.
3. Any debris resulting from construction not reused or recycled must be disposed of in a permitted facility.
4. ESD must determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
5. No storm water run-off to the lake or to adjoining properties is permitted. The approved expansion and structure if determined necessary by ESD shall be equipped with gutters to redirect storm water and if needed water retention structures such as rain gardens shall be installed to retain structure run-off and prevent run-off to the lake and adjoining properties.
6. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
7. Unless extended or revised by the Planning Commission this approval shall be effective until 02/09/17.

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.

Hagen, Jeffery, Turtle Lake Township on property described as E 422 feet of SE $\frac{1}{4}$ of Govt Lot 4, Section 22-140-30, PID #45-122-3305 located at 8006 Hawthorne Trail NW. An application submitted to replace the existing residence located 45 feet from the lake with new construction to be located 50 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) are Section 800 which establishes the variance criteria and Section 1126.1 which requires structures to be setback 75 feet from a lake classified General Development (GD). The parcel contains 1.78 acres riparian to Leech Lake (GD).

48 notices of the application were mailed. Five responses all in support of approval of the application were received. The application was discussed and reviewed with the applicant Mr. Hagan which centered on the building envelope of the lot and the need to establish the ordinary high water level (OHWL) for Leech Lake for the property.

MS/P Kostial/Moore to table consideration of the application until the 03/09/15 meeting in order for ESD staff to determine the OHWL.

Hendrickson, David & Pamela, Slater Township on property described as Part of Govt Lot 8, Section 28-142-26, PID #39-008-4307 located at 7656 Little Sand Drive NE. An application submitted to expand the existing non-conforming residence with a 10 feet x 11 feet addition to be located non-lakeside 94 feet from the lake. The residence is non-conforming because it is located 72 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 150 feet from a lake classified natural Environment (NE). The parcel contains 2.06 acres riparian to Little Sand Lake (NE).

20 notices of the application were mailed with no responses received. The application was discussed and reviewed with the applicant Ms. Hendrickson.

MS/P Moore/Kostial to approve the application for expansion of the residence located upon PID #39-008-4307 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 1959.
2. The existing setback from the lake of the residence, 72 feet, is less than the required 150 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 located non-lakeside and have no effect on current lake setback which seems reasonable and will not be visible from the lake and modest in size when taking into account setback and configuration of the residence 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.
5. The proposed structure expansion, non-lakeside and modest of size, 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 Little Sand 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 01/22/15.
2. The height of the addition 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 extended or revised by the Planning Commission this approval shall be effective until 02/09/17.

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.

Widell, Daniel, Sylvan Township on property described as Part of SE NE, MP & L Lease Lot 6, Section 20-133-29, PID #41-820-1406 located at 1510 Oak Ridge Road SW. An application submitted to expand the existing non-conforming residence with a 38 feet x 40 feet addition that will be located 72 feet from the river. The residence is non-conforming because it is located 64 feet from the river. 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 river or stream classified Tributary (TR). The parcel contains .82 acre riparian to the Gull River (TR).

20 notices of the application were mailed. One response, from Sylvan Township recommending approval with conditions was received. The application was discussed and reviewed with Mr. and Mrs. Widell along with Mr. Dave Johnson who was in attendance to represent the Sylvan Township PC.

MS/P LaPorte/Kostial to approve the application to expand the residence located upon PID#41-820-1406 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 is a MP & L lease lot to which Minnesota Power has given approval to the addition if a variance is granted.
2. The existing setback from the river, 64 feet, of the residence is less than the required 100 feet.
3. The proposed addition will be 72 feet from the river.
4. There is no record in the permit archive of the original construction although based on setback it was more than likely prior to the adoption of land use regulation in 1972.
5. The proposed addition will not increase the existing encroachment to the river and 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.
6. There is no evidence or information that the proposed expansion of the residence 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.
7. Because the surrounding area along the Gull River 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.
8. 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, dimensions, location and configuration of the structure expansion shall not vary from that submitted with the application dated 12/22/14.
2. The structure shall not exceed a one -story with a walkout.
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. If a walk-out option for the expansion is selected, the excavation must comply with the requirements in Sections 1106.2 and 1106.3 of the Land Use Ordinance.
5. Any material resulting from construction or demolition 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 applicants in conjunction with ESD staff shall determine the depth of and establish a "no mow" area along the shore of the river.
9. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
10. Unless extended or revised by the Planning Commission this approval shall be effective until 02/09/17.

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:

Request received from Doug Donovan to extend VP11-133-29-1 which approved 03/11/11.

MS/P LaPorte/Froehlig to approve the extension of VP11-133-29-1 until 02/09/17.

Mr. Tom Steffens appeared to update the members as to the status of the redevelopment of Quarterdeck Resort. No action taken.

MS/P Froehlig/Moore at 11:37 am, to adjourn.

P. Fairbanks