



Cass County
Planning Commission/Board of Adjustment

January 11, 2016

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting January 11, 2016 in the meeting room of the Cass County Land Department in Backus. The field inspection for the meeting was conducted January 4, 2016 with PC members Fitch, Kostial, LaPorte, Moore, and Pehling 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: Bernie Bauhof, Rick Braman, Marlene Cooney, Mike Hyland, Chris Kuehn, Marc Olson, Kathy Pinerski, Virginia Shearen, Kathie Schultz, Robert Schultz and John Stefan.

MS/P Moore/Pehling to approve the minutes of the 12/14/15 PC/BOA meeting as presented.

MS/P Moore/Kostial to approve the minutes of the 12/28/15 PC/BOA meeting as presented.

Variance

Lambertson, Dennis, Turtle Lake Township on property described as Part of SE NW & Part of Govt Lot 2 (Tract 1), Section 31-141-30, PID #45-031-2407 located along Tamarack Trail NW. An application submitted to construct a 48 feet x 80 feet, 3,840 square feet, storage structure on a common area owned by several neighbors. The applicable portions of the Land Use Ordinance (02/15/13) include Section 800 which establishes variance criteria and Section 1101 which limits an accessory structure to 2,400 square feet on a riparian lot which contains from 2 acres to 4.99 acres. The property contains 3.2 acres riparian to Ten Mile Lake (GD).

PC members were at the site 01/04/16. 45 notices of the application were mailed with no responses received. The application was reviewed with the applicant's representative Mr. Hyland.

MS/P Kostial/LaPorte to approve the application for the accessory structure to be located upon PID #45-031-24-7 Tract 1 as submitted upon review of the criteria contained in Sections 800

and 1101 of the Land Use Ordinance (02/15/13) along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. There is no record in the permit archive as to when the existing accessory/storage structure was constructed and it is assumed that it was prior to the adoption of use regulation and if the application is approved, will be removed.
2. Although the property is technically riparian, the site proposed for the structure is not visible to Ten Mile Lake.
3. There is nothing to indicate that the proposed structure will alter, disturb or negatively impact existing land use or neighboring property 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 or 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.
4. There is no information or evidence to indicate that the application is primarily financially based.
5. The application, if approved, will not allow a use that is prohibited in the zoning district in which the subject property is located.
6. The application, if approved and assuming compliance with applicable run-off related conditions will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.
7. The application, if approved, will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.

NOTICE TO APPLICANT: If the following 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, restoration or no mow 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.

NOTICE TO THE APPLICANT: No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD, correction of any

circumstances in violation of laws or 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 required by ESD.

Conditions:

1. 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.
2. The size, location and height of the structure not vary from that submitted 11/23/15 unless approved by ESD or if necessary the Planning Commission.
3. Applicant shall consent to inspection of the property by ESD to verify compliance with conditions.

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.

Conditional Use Permit

KARM LLC, Shingobee Township on property currently owned by Walker Lodge #302 described as Lot 20, Block 3, "Woodlawn Estates" & Part of NE SE Beginning at a Point of SW Corner of NE SE, Thence Northerly, Section 12-141-31, PID #38-390-0341 located at 6544 State 371 NW. An application submitted to establish a concrete ready-mix plant on the property. Such light manufacturing requires a conditional use permit in an area classified Commercial - 1 (C-1). The applicable sections of the Land Use Ordinance (02/15/13) include Section 705 which establishes CUP standards and Sections 903 and 1001 which establish land use districts standards. The property contains 2.2 acres (C-1).

PC members were at the site 01/04/16. 66 notices of the application were mailed. One written response from MN DOT expressing concern in regard to trucks accessing the site was received. In addition, several persons from the notification area appeared to express their concerns and opposition to the application and to present a petition containing the signatures of 19 persons all opposed to the proposal. The application was reviewed with the applicant, Mr. Olson, with discussion including, but not limited to: the concrete manufacturing process, amount of stock-piled ingredient material, anticipated truck trips, water use and MN #371 traffic and access.

MS/P LaPorte/Froehlig to approve the application the proposed land use, ready-mix concrete batch plant, at PID #38-390-0341 based upon review of the criteria contained in Sections 705, 903 and 1001 of the Land Use Ordinance (02/15/13) along with M.S. 394.301 with the following findings:

Findings:

1. The property included in the application is located within one mile of the junction of MN #200 and MN #371 which is designated C-1 in which "light manufacturing" requires a conditional use permit (CUP).
2. Light manufacturing in the Cass County Environmental Definitions Ordinance (05/25/07) is defined as; "The use of land or buildings for the commercial production, manufacture, warehousing, storage or transfer of goods, products, commodities or other whole sale items.
3. For land use regulation purposes, ESD has determined that the proposed land use, a concrete batch plant would be considered "light manufacturing".
4. The proposed property for the concrete batch plant abuts the east side of the right-of-way with a direct approach to MN #371.
5. Presuming the existing tree buffer is maintained along the north, east and west boundaries of the property, there is nothing to indicate that the proposed use will have detrimental visual or other impact to neighboring residential property located to the east of the proposed land use activity 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 or 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. The surrounding area consists of a rural suburban type development to the east and various commercial, retail and service activities to the north, west and south. There is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed concrete batch plant.
7. The proposed concrete batch plant will have no impact to the demand for governmental services.
8. MN # 371 will be utilized for the proposed land use with no need to expand exiting public infrastructure.
9. No wetland or critical habitat will be disturbed by the proposed land use.
10. No scenic or historic features will be affected by the proposed land use.
11. With compliance of conditions and all applicable state requirements, it is reasonable to expect that the proposed use will pose no threat to public health, safety and welfare.

Conditions:

1. The depth of the existing vegetative/tree buffer along the north, east, and south boundaries must be maintained at a width of at least 50 feet as verified by ESD prior to the commencement of any development activity.
2. Any run-off must be contained on-site.
3. The hours of operation shall be 6:00 AM to 6:00 PM.

4. On-site stockpiled sand and rock each shall not exceed 250 cubic yards and 12 feet from ground to top for each pile.
5. The batch plant including silos shall be located at least 50 feet from the right-of-way of MN #371.
6. The applicant must comply with and provide verification any applicable air quality standards or permits as required by MPCA.
7. On-site commercial vehicle equipment shall not exceed four trucks and one loader and when not in use shall be parked not less than 100 feet from the right-of-way of MN #371.
8. The applicant shall contact MN DOT with verification submitted to ESD in order to ascertain applicable egress, and ingress information and implementation standards including signage that may be utilized to provided notice of egress and ingress activity to MN #371.
9. No excavation for concrete product material shall take place at the site.
10. Financial assurance in the amount of \$2,500 shall be submitted to ESD prior to the commencement of development which will be reduced incrementally as the vegetative buffer and compliance with MN DOT egress and ingress standards is verified by ESD.
11. No clean-out material from the ready-mix truck shall be emptied to the ground; it shall be contained in a holding tank and re-used as explained by the applicant. Any other process must be approved by the Planning Commission and be compliant with MPCA standards.

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.

Kuehn, Chris, Birch Lake Township on property currently owned by Gull Lake Fireplace Inc described as That Part of SE SW Lying Easterly of ROW Line of the former BN RR & Lying Westerly of ROW Line of State Hwy #371, Section 6-140-30, PID #05-006-3403 located at the junction of Cass #6 and MN #371. An application submitted to reclassify the property from Rural Residential 2.5 (RR-2.5) to Commercial-2 (C-2) which requires approval by conditional use permit (CUP). Any land use within C-2 requires CUP approval and conditions limited to a specific land use activity. The proposed land use activity is to relocate current business activity of furniture manufacture and sales from the current Hackensack location to the proposed site. The applicable sections of the Land Use Ordinance (02/15/13) include Section 705 which establishes CUP standards and Sections 903 and 1001 which establish land use districts standards. The property contains 12.2 acres (RR-2.5).

PC members were at the site 01/04/16. 75 notices of the application were mailed. Three written responses, including MN DOT, expressing no objection to the application were received. The application was reviewed with Mr. Kuehn.

MS/P Moore/Pehling to approve the application for reclassification and the proposed commercial/retail use at PID #05-006-3403 based upon review of the criteria contained in Sections 705, 903 and 1001 of the Land Use Ordinance (02/15/13) along with M.S. 394.301 with the following findings:

Findings:

1. The purpose of the C-2 District is to provide adequate space areas for general retail and service activities as conditional uses in rural areas to which the proposed use is appropriate.
2. The proposed lot for the proposed retail/manufacturing use is located along the right-of-way of County #6 at the junction with MN #371 and adjacent to rights-of-way of the Paul Bunyan Trail and MN #371.
3. There is nothing to indicate that the proposed use will have detrimental visual or other impact to neighboring property 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 or 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.
4. The surrounding area consists of a storage development along with undeveloped timber land to which there is no reason or evidence to conclude that area land use will be negatively affected or altered by the use.
5. Approval will have no impact on the demand for governmental services.
6. Existing roadways will be utilized with no need to expand exiting public infrastructure.
7. No wetland or critical habitat will be disturbed.
8. No scenic or historic features will be affected.
9. No threat to public health, safety and welfare can be expected.

Conditions:

1. The reclassification and approved use shall apply to the acreage and boundaries as determined by survey which shall be submitted to ESD prior to development.
2. The site plan submitted for development is approved for implementation.
3. The applicant shall contact the Cass County Highway Department in order to verify applicable approach requirement to Cass #6.
4. If the proposed use and development area exceeds one acre the applicant must obtain applicable state permit and submit verification to ESD.
5. Assuming leaf-on, any outside storage shall not be visible to Cass #6, MN #371 and the Paul Bunyan Trail.

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.

MS/P Fitch/Pehling at 10:55 am, to adjourn.

P. Fairbanks