



Cass County
Planning Commission/Board of Adjustment

April 14, 2014

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting April 14, 2014 in the meeting room of the Cass County Land Department in Backus. The field inspection for the meeting was conducted April 7, 2014 with PC members Anderson, Ballenthin, Fitch, LaPorte and Sundberg along with ESD staff Berg and Fairbanks in attendance.

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

Members present: Anderson, Ballenthin, Fitch, LaPorte, Moore and Sundberg.

Staff Present: Berg, Fairbanks, and Ringle.

Citizens Present: Gary Hanley, Mary Hanley, Julie Hofstedt, Scott Hofstedt, Gary Krimmel, Jeanne Krimmel, Loren Murren, Cyndy Showalter, Steve Showalter, William Triplett and James Wangen.

MS/P Anderson/LaPorte to approve the minutes of the 03/10/14 PC/BOA meeting as presented.

Variance

Hanley, Gary & Mary, Woodrow Township on property described as Part of Gov Lot 1, Section 22-140-29, PID #51-022-1101 located at 888 Edgewater Drive NW. An application submitted to expand the existing lakeside deck. The residence is non-conforming because it is located 26 feet from the lake at the closest point. Section 1126.1 A. of the Land Use Ordinance (02/15/13) requires structures to be at least 75 feet from the OHWL of a lake classified General Development (GD). In addition, Section 1115.3 B. of the Land Use Ordinance (02/15/13) requires a variance for the expansion of any non-conforming structure. Section 800 of the Land Use Ordinance (02/15/13) establishes the variance review criteria. The parcel contains .7 acre riparian to Woman Lake (GD). Consideration of this application was tabled during the 01/13/14 meeting at the applicants' request.

65 notices of the application were mailed. Two responses including that of the Woodrow Township Planning Commission recommending approval were received. The proposal for the deck expansion was discussed and reviewed with the applicants. They pointed out their revision from the 01/13/14 meeting which would place the deck expansion to the side of the residence rather than increasing the encroachment toward the lake.

MS/P LaPorte/Fitch to approve the application to expand the non-conforming residence deck located upon PID #51-022-1101 based 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. There is no record in the permit archive as to when the original structure was constructed although it is apparent that it was prior to land use regulation by an owner other than the applicant.
2. An addition to the residence at 41 feet was approved by variance in 1978.
3. As suggested by the members, the applicants revised the original proposed deck configuration to one that has most of the expansion to the side of the existing deck and the residence.
4. There is nothing to indicate that the expanded deck will have a perceptible visual impact to the lake or neighbors.
5. The proposed deck expansion seems a reasonable use of the property when taking into account the configuration of the property along with the location 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. The proposed deck expansion will not be excessive of scale or obtrusive 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.
7. Because the surrounding area contains 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 expansion.
8. There is no reason to conclude that water quality will be in any way affected by the proposed expansion.
9. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: The following conditions are included and no permit to implement shall be issued until and if:

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.

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. The dimensions and configuration the deck expansion shall not vary from that submitted 03/24/14.
2. Any material resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
3. 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.
4. 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.
5. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
6. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 04/14/16.

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.

Hofstedt, Scott, Wabedo Township on property described as S 125 Feet of N 525 Feet of Gov Lot 4, Section 8-140-28, PID #46-008-4404 located at 674 Minnow Lane NE. An application submitted to expand the existing non-conforming residence with a 24 feet x 30 feet attached garage addition and a 15 feet x 21 feet addition. The residence is non-conforming because it is located 46 feet from the lake at the closest point. Section 1126.1 B. requires structures to be at least 75 feet from the OHWL of a lake classified General Development (GD). In addition, Section 1115.3 B. of the Land Use Ordinance (02/15/13) requires a variance for the expansion of any non-conforming structure. The parcel contains 5 acres riparian to Woman Lake (GD). Consideration of this application was tabled during the 12/09/13 meeting at the applicant's request.

35 notices of the application were mailed. One response from the Wabedo Township Planning Commission recommending approval was received. The proposal for the residence expansion and garage location was reviewed with the applicants with discussion focused upon impervious coverage and run-off.

MS/P Fitch/Anderson as requested by the applicants, table consideration of the application until the applicants assess their situation and either submit a revised application site plan or withdraw their application from consideration.

Ingebrigtsen, David, Loon Lake Township on property described as Lot 1 Excluding That Part Lying East of a Line Drawn Parallel with A 350 Feet East as measured at right angles to W Line "Millers Shores", Section 16-136-29, PID #22-385-0105 located at 5612 Sibley Lake Road NW. An application submitted to subdivide the parcel into two lots; one lot containing 48,678 square feet and one lot containing 48,844 square feet. Both proposed lots would comply with the minimum width and buildable area requirements. Section 1113.1 of the Land Use Ordinance (02/15/13) requires a new non-riparian lot within the shoreland area (.25 mile) of a lake classified General Development (GD) to contain at least 50,000 square feet total area, 20,000 square feet buildable area which cannot be bluff area, right-of-way area, setback area or wetland area. In addition the proposed lots will comply with the minimum required lot width. Section 800 of the Land Use Ordinance (02/15/13) establishes the variance review criteria. The parcel contains 2.24 acres non-riparian within the shoreland Area (.25 mile) of Sibley Lake (GD).

36 notices of the application were mailed. One response offering no objection to approval of the application was received. The proposal was discussed and reviewed with the applicant's representative Mr. Murren.

MS/P Moore/Fitch to approve the application for lot division as submitted for PID #22-385-0105 based 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 was platted in 1978 at which time the minimum total area requirement for non-riparian GD was 40,000 square feet.
2. Both proposed lots will comply with the minimum width and buildable area criteria.
3. Proposed Tract B-1 will be deficient 1,322 square feet which is 97.3% of compliance.
4. Proposed Tract B-2 will be deficient 1,156 square feet which will is 97.6% of compliance.
5. The proposed deficiency for the proposed non-riparian lots is insignificant and will not affect setbacks or impervious coverage.
5. Both proposed lots will abut an existing public road.
6. There is nothing to indicate that the proposed lots will have any perceptible detrimental visual impact to Sibley Lake or neighboring property.

7. The proposed lots seem a reasonable use of the property when taking into account their proposed size, configuration and location 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.
8. The proposed lot configuration along with the addition of one residence will not be obtrusive 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.
9. Because the surrounding area contains lots and structures similar in size and scale to that proposed, there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed lot configuration.
10. There is no indication or reason to conclude that water quality will be in any way affected by the proposed lot configuration.
11. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

Conditions:

1. The dimensions, configuration and size of the lots shall not vary from that submitted 03/12/14.
2. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 04/14/16.

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.

Krimmel, Gary & Jeanne, Hiram Township on property described as Lot 36, "Peaceful Shores", Section 13-140-31, PID #16-410-0360 located at 5071 Woodland Drive NW. An application submitted to expand the non-conforming residence with a 14 feet x 28 feet car port porch and a 5 feet x 18 feet covered walkway. The residence is non-conforming because it is located 67 feet from the lake. Section 1126.1 A. of the Land Use Ordinance (02/15/13) requires structures to be at least 75 feet from a lake classified General Development (GD). Section 1115.3 B. of the Land Use Ordinance (02/15/13) requires a variance for the expansion of any non-conforming structure. Section 800 of the Land Use Ordinance (02/15/13) establishes the variance review criteria. The property contains .87 acre riparian to Birch Lake (GD).

82 notices of the application were mailed with no responses received. The proposal for the residence expansion was reviewed with the applicants.

MS/P Fitch/Moore to approve the application for car port/walkway expansion for PID #16-410-0360 as submitted based 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 lot was platted in 1946 prior to the adoption of lot standards.
2. The residence was constructed in 1977 with permit.
3. The entirety of the expansion will be located beyond the required lake setback.
4. The proposed expansion will be located non-lakeside which seems a reasonable use of the property when taking into account the size and configuration of the residence which does not contradict the purpose 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 car port portion of the application will not be enclosed and not be excessive of scale and mainly unobservable to neighboring property and completely unseen from the lake which does 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 local area consists of a neighborhood of residences and garages similar in scale there is no evidence to conclude that area land use will be negatively affected or altered by the size or location of the proposed car port.
7. There is no reason to conclude that water quality will be in any way affected by the size or location of the proposed expansion.
8. There is no reason to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: The following conditions are included and no permit to implement shall be issued until and if:

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.

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. The dimensions and location of the car port/enclosed walk way shall not vary from that submitted 03/06/14.
2. Any debris resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
3. 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.
4. 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.
5. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
6. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 04/14/16.

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.

Showalter, Steve & Cindy, Ponto Lake Township on property described as Lot 4, Block 1, "Lundrigan's Spring Beach", Section 22-139-29, PID #32-433-0120 located at 1018 Ada Lane NW. An application submitted to expand the non-conforming residence with a 14 feet x 18 feet screen porch addition and 6 feet x 46 feet deck which will be located 70 feet from the lake. The residence is non-conforming because it is located 72 feet from the lake. Section 1126.1 A. of the Land Use Ordinance (02/15/13) requires structures to be at least 100 feet from a lake classified Recreational Development (RD). Section 1115.3 B. of the Land Use Ordinance (02/15/13) requires a variance for the expansion of any non-conforming structure. Section 800 of the Land Use Ordinance (02/15/13) establishes the variance review criteria. The property contains one acre riparian to Lake Ada (RD).

26 notices of the application were mailed with no responses received. The proposal was discussed and reviewed with the applicants.

MS/P Ballenthin/LaPorte to approve the application for residence/deck expansion as submitted for PID #32-433-0120 based 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 was platted in 1973.
2. The residence was constructed in 1988 with a closer setback variance approved by the Ponto Lake Township Zoning Board in 1987.
3. The existing deck is in potentially hazardous condition which requires replacement.
4. The proposed expansion seems a reasonable use of the property when taking into account the size, configuration and location of the residence which does not contradict the purpose 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 expansion will not be excessive of scale or size when compared to the residential development in the surrounding area which does 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 local area consists of a neighborhood of residences and garages similar in scale there is no evidence to conclude that area land use will be negatively affected or altered by the size or location of the proposed residential expansion.
7. There is no reason to conclude that water quality will be affected by the size or location of the proposed expansion.
8. There is no reason to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: The following conditions are included and no permit to implement shall be issued until and if:

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.

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. The dimensions and location of the expansion shall not vary from that submitted 03/14/14.
2. Any debris resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
3. 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.
4. 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.
5. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
6. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 04/14/16.

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.

Wangen, Lynn & James. Birch Lake Township on property described as part of Gov Lot 5, Section 28-140-30, PID #05-028-4302 located at 2888 Sparrow Trail NW. An application submitted to expand the non-conforming residence with a 12 feet x 12 feet deck, a 13 feet x 10 feet x 10 feet x 3 feet x 20 feet L shaped addition and a 10 feet x 12 feet addition. The residence is non-conforming because it is located from 50 feet to 68 feet from the lake. Section 1126.1 A. of the Land Use Ordinance (02/15/13) requires structures to be at least 75 feet from a lake classified General Development (GD). Section 1115.3 B. of the Land Use Ordinance (02/15/13) requires a variance for the expansion of any non-conforming structure. Section 800 of the Land Use Ordinance (02/15/13) establishes the variance review criteria. The property contains 2.05 acres riparian to Pleasant Lake (GD).

23 notices of the application were mailed with no responses received. The proposal was discussed and reviewed with Mr. Wangen who explained the revision of the application to include a 10 feet x 12 feet addition on the south side of the residence.

MS/P Ballenthin/LaPorte to approve the application for residence/deck expansion for the north side of the residence and as revised for the south side of the residence for PID #05-028-4302 based 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 lot became of record in 1956 and is of a peninsular configuration.

2. There is no record in the permit archive prior to 1972 so it is presumed that the original residence was constructed prior to land use regulation by an owner other than the applicant.
3. The peninsula configuration of the property limits structure location at the required lake setback.
4. The proposed expansion seems a reasonable use of the property when taking into account the lot configuration along with the configuration and size of the residence which therefore does not contradict the purpose 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 expansion of the residence will not be out of scale and size when compared with other residential development in the surrounding area which therefore does 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 local area consists of a neighborhood of residences and garages similar in scale there is no evidence to conclude that area land use will be negatively affected or altered by the size or location of the proposed car port.
7. There is no reason or evidence to conclude that water quality will be in any way affected by the size or location of the proposed expansion.
8. There is no reason to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: The following conditions are included and no permit to implement shall be issued until and if:

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.

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. The dimensions and location of the additions shall not vary from the site plan submitted 04/01/14.
2. Any debris resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
3. 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.
4. 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.
5. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
6. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 04/14/16.

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 LaPorte/Moore to establish, as requested, a committee consisting of PC members Ballenthin, LaPorte and ESD staff along with additional interested members as determined to examine and assess the conversion of forest lands to intensified/irrigated row crop agricultural use for possible land use ordinance revisions.

MS/P Moore/Fitch at 12:07 pm, to adjourn.

P. Fairbanks