

Fairview Township Planning Commission
Tuesday, March 2, 2010 (Part 2)

Members in attendance: Ken LaPorte, Tom Dechmann

Meeting convened at property of Bradley & Teresa Manson, 3381 Beauty Lake Rd SW, PID: 14-121-4400, at 11: 35 AM for the review of an application submitted to replace an existing 18 feet x 22 feet residence with a 30 feet x 32 feet residence at the same setback from the lake which varies from 56 feet to 99 feet. In addition, the applicants request to be allowed to retain, “after the fact”, an existing 18 feet x 20 feet x 7 feet unattached deck located 65 feet from the lake. The property contains 29.98 acres riparian to Beauty Lake (NE). Section 1116.1 of the Land Use Ordinance requires structures to be located at least 150 feet from a lake classified Natural Environment (NE).

The Fairview Township Planning Commission reconvened the meeting at the Fairview Town Hall at 12:25 PM to discuss the variance application.

The Fairview Planning Commission had an opportunity to review the Manson property on March 2nd with the Board of Adjustment. The Planning Commission has no issue with the construction of the proposed 30 foot by 32 foot residence at the current setbacks, the placement of the boulder wall and would allow site prep to reduce the 6% to 10% grade at the structure site.

The Planning Commission does take issue with the existing “after the fact” 18 foot by 20 foot overhanging platform deck. The Commission would suggest that the deck be removed from its current location. It could possibly be relocated as a patio, as long as it meets all requirements in section 1126.7 of the Cass County Land Use Ordinance under Platforms and Patios. All railings would have to be removed from the existing deck and the relocation should not encroach any closer than the original wooden walkway.

There has been communication between the State of Minnesota and the Fairview Township Board of Supervisors concerning the possibility of the Township accepting Beauty Lake Forest Road as a Township road. With that being said, in view of the close proximity of the existing road to the property line, Fairview Township would like to see an increase in the 12 foot setback currently planned from the North property line to the proposed 30 foot by 30 foot storage building.

Lastly, the Commission would also recommend the currently existing Outhouse be relocated at or near the new drainfield site (or eliminate it all together).

Proposed findings from Paul Fairbanks to the Cass County Planning Commission submitted on March 4, 2010:

Application submitted to replace an existing 18 feet x 22 feet residence with a 30 feet x 32 feet residence at the same setback from the lake which varies from 56 feet to 99 feet. In addition, the applicants request to be allowed to retain, "after the fact", an existing 18 feet x 20 feet x 7 feet unattached deck located 65 feet from the lake. The property contains 29.98 acres riparian to Beauty Lake (NE). Section 1116.1 of the Land Use Ordinance requires structures to be located at least 150 feet from a lake classified Natural Environment (NE).

Findings/ Approve:

1. The residence location has not affected ground or surface water.
2. The residence location has no effect to the area land use.
3. The residence location is reasonable based upon the configuration of the useable area of the property.
4. The parcel depth of 90 feet to 140 feet results in no area to comply with right-of-way setback of 20 feet and lake 150 feet.
5. Fairview Township has recommended approval along with conditions that the deck location be altered and the accessory/ structure be located 30 feet from Beauty lake Road.
6. Except for one response from one notified property owner offering no objection, no other comments were received from agencies or persons notified.
7. Financial consideration is not the sole basis for the application.
8. The request is not a substantial variation from the Land Use Ordinance standards.
9. Approval of the residence location will not cause the need or demand for increased government services.

Conditions:

1. The residence shall not exceed 30 feet x 32 feet and shall not be closer to the lake than the structure to be removed.
2. The accessory/storage structure shall not exceed 30 feet x 30 feet and shall not be less than 88 feet to the lake and not less than 30 feet from the driving surface of the road.
3. ESD must determine the need for construction erosion control and if required approve erosion control placement prior to the commencement of construction.
4. The deck must be moved away from the lake and attached to the residence.

5. ESD shall determine the need for shoreline vegetation and if required approve a plan for restoration along with financial assurance of ?/sq. ft. based upon the size of the planting area.

6. Any material resulting from the demolition of the existing residence not recycled or reused must be disposed of in a permitted facility.

On March 8th the Cass County Planning Commission met for their regular meeting in Backus. The following is a summary of that meeting:

BOA members were at the site 3/02/10. 15 notices of the application were mailed. Two responses of no objection were received. In addition, correspondence from Fairview Township recommending approval of the residence setback along with comments in regard to the location of the deck and proposed storage building. The application was discussed and reviewed with Mr. Manson along with his contractor, Mr. Rasinski.

Motion made and carried unanimously to table consideration of the application to the 4/12/10 meeting in order for the applicants to submit a revised site plan.

Cass County Planning Commission, regular meeting on April 12, 2010, Backus, MN
(Tom Dechmann and Marla Yoho attended the meeting)

Consideration of this application was tabled during the 3/09/10 meeting in order for the applicants to submit a revised site plan. PC members were at the site 3/01/10.

Motion made and carried unanimously to approve the application for the residence and accessory structure to be located upon PID: 14-121-4400 upon review of Section 805 of the Land Use Ordinance (3/1/09) along with criteria established by court decisions with the following findings and conditions.

Findings:

1. The residence location has not affected ground or surface water.
2. The residence location has no effect to the area land use.
3. The residence location is reasonable based upon the configuration of the useable area of the property.
4. The parcel depth of 90 feet to 140 feet results in no area to comply with right-of-way setbacks.
5. Fairview Township has recommended approval along with conditions that the deck location be altered and the accessory/ structure be located 30 feet from Beauty lake

Road.

6. Except for one response from one notified property owner offering no objection, no other comments were received from agencies or persons notified.
7. Financial consideration is not the sole basis for the application.
8. The request is not a substantial variation from the Land Use Ordinance standards.
9. Approval of the residence location will not cause the need or demand for increased government services.
10. A variance for a free standing deck is denied, and the existing free standing deck must be removed promptly, and in no case later than 6/10/10. Applicants have reasonable use of the property without the free-standing deck. A variance for the free standing deck would alter the essential character of the locality by placing an artificial structure over-hanging a natural bank on a natural Environment lake. Applicants apparently acted in ignorance of legal requirements in constructing the free-standing deck; applicants did not request a permit for the free-standing deck from any authority. The investment in the free-standing deck is not substantial and the deck surface may be reused to provide a platform or patio above the bank in accordance with section 1126.7 A & B. The free-standing deck was completed before the applicant was informed of the impropriety. The property is residential. There are no similar structures on the lake which were observed. Financial considerations are not the sole reason for the variance.

Conditions:

1. The residence shall not exceed 30 feet x 32 feet and shall not be closer to the lake than the structure to be removed.
2. The accessory/storage structure shall not exceed 30 feet x 30 feet and shall not be less than 88 feet from the lake and not less than 14 feet from the driving surface of the road.
3. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal 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, to the access road from the approved structure(s), or to adjoining properties is permitted. The approved structure and any structure to which the approved structure is attached, if necessary, shall be equipped with gutters to redirect storm water and if needed water retention structures (rain gardens, for example) shall be installed to retain structure run-off and prevent run-off to the lake, the access road, and adjoining properties.

6. The existing outhouse, which is non-compliant shall be reconstructed or removed by 9/1/11.
7. The new residence shall not be occupied until installation of a SSTS.
8. Shore vegetation/ re-vegetation shall be installed and maintained in a buffer area extending from the water line of Beauty Lake to a line extending 10 feet landward from the top of the bank and with a water line width to the extent that native vegetation has been disturbed, subject to a 14-foot wide lake access area. The buffer area shall include the entire distance from the retaining wall and shoreline. The applicant shall develop a plan for vegetation, a schedule for implementation, and a good faith, reasonable estimate of the cost to implement the vegetation plan, all of which shall be approved by ESD.

No permit to build the approved structures shall be issued until the earlier of the following, at applicant's option is selected.

9. Completion of substantial implementation of the vegetation plan, as determined by the ESD.
10. Deposit of financial assurance with ESD in the amount of \$1 per square foot of the buffer area for no-mow plus \$3 per square foot for all other vegetative buffers, or if less, 125% of the cost estimate.

Any financial assurance shall be returned to the applicant upon a schedule approved by ESD, and in all events upon substantial implementation of the plan, as determined by ESD. Requirements of the approved plan for vegetation not completed in accordance with the schedule will be installed at the direction of ESD and charged against the financial assurance.

11. A boulder retaining wall may be constructed as shown in the site dated/ received 3/18/10. A shoreline Alteration Permit authorizing any fill and boulder wall. The vegetative buffer condition stated above shall include vegetation extending the entire distance from boulder retaining to the lake.
12. The patio and walkway to the lake shall be located as shown on the site plan dated received 3/18/10 and must be constructed of pervious materials.
13. Applicant consents to inspection of the property from time to time by ESD to verify compliance with all 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.