

**Fairview Township Planning Commission
Monday October 3, and Tuesday October 4, 2011 – Perkl**

In attendance: Ken LaPorte, Tom Dechmann

Meeting called to order at 3:00 Pm by Chairman Ken LaPorte.

Donald Perkl

*Parcel: 14-363-0250 & 14-363-0260
9856 Birch Bay Dr SW*

Application to expand an existing non-conforming residence with a 13' by 13' non-lakeside addition. The residence is a non-conforming structure because it is located 40 feet from the lake. The property contains 2.3 acres riparian to Gull Lake.

The Fairview Planning Commission had an opportunity to discuss the application and composed the following letter:

Paul Fairbanks

ESD

October 4, 2011

Re: Donald Perkl Variance Application

*Parcel: 14-363-0250 & 14-363-0260
9856 Birch Bay Dr SW*

Application to expand an existing non-conforming residence with a 13' by 13' non-lakeside addition. The residence is a non-conforming structure because it is located 40 feet from the lake. The property contains 2.3 acres riparian to Gull Lake.

The Fairview Township Planning Commission had an opportunity to review the Perkl property on October 3rd with the Cass County Board of Adjustment.

The Planning Commission discussed the application and the members agreed the variance should be approved.

Sincerely,

Fairview Township Planning Commission

The following are the findings of the Cass County Planning Commission/ Board of Adjustment at their regular meeting on October 10, 2011 in Backus:

Perkl, Donald,

Fairview Township on property described as Lots 25 -27, "Birch Bay on Big Gull", Section 5-134-29, PID #s 14-363-0250 & 14-363-0260 located at 9856 Birch Bay Drive SW. An

application submitted to expand an existing non-conforming residence with a 13 feet x 13 feet non-lakeside addition. The residence is non-conforming because it is located 40 feet from the lake. Section 1126.1 A. of the Land Use Ordinance requires structures to be 75 feet from a lake classified *General Development (GD)*. Section 1115. B. of the Land Use Ordinance requires a variance for any expansion of a non-conforming structure. The property contains 2.03 acres riparian to Gull Lake (GD).

PC members were at the site 10/03/11. 43 notices of the application were mailed. Two responses, including Fairview Township, both recommending approval with were received. The application was discussed and reviewed with the applicant's representative Mr. Waidelich.

MS/P Moore/Ballenthin to approve the application as submitted for the expansion of the residence located upon PID # 14-363-0250 upon review of Section 800 of the Land Use Ordinance (01/10/10) and M.S. 394.27, Subdivision 7 along with the following findings and conditions.

Findings:

1. The property became a lot of record in 1958.
2. No record of permit for the construction can be located therefore it is presumed that it was constructed prior to 1972 at 40 feet from the lake.
3. The expansion will be non-lakeside and not affect the lake setback of the residence.
4. The expansion 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.
5. The size of the expansion is not excessive and located to be not obtrusive to the lake and 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.
6. The residence with the expansion seems not excessive, extreme and not substantially different from many other Gull Lake residences and therefore there is no reason to conclude that that area land use will be negatively affected or altered.
7. There is no reason to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: No permit to implement shall be issued until and if:

1. ESD required and approved erosion control is installed.
2. A written plan for native vegetation is 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 \$1.00 per square foot of the buffer area for no-mow or \$3.00 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 of the expansion shall not exceed that submitted 09/21/11.
2. Any debris resulting from demolition or construction not reused or recycled must be disposed of in a permitted facility.
3. 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.
4. 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.
5. Shore vegetation shall be maintained in its existing type, configuration, and density or as determined by ESD shall be installed and maintained in a buffer area, subject to a 14 foot wide lake access area. The applicant shall submit a written plan for a native vegetation buffer to reduce/eliminate nutrient run-off to the lake which shall have written approval by ESD. The plan shall include a schedule for implementation and an estimate of the cost to implement. The plan shall include a buffer within an area defined in the plan and approved by ESD.
6. Approval does not allow or imply that the structure to be expanded can be removed by demolition or any other method nor shall the structure to be expanded be reduced to "one wall".
7. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
8. Approval expires 10/10/13.

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.