

*Fairview Township Planning Commission
Monday November 2, 2009*

Members in attendance: Ken LaPorte, Tom Dechmann, Joe Fitterer, Roger Ocell

Meeting called to order at 2:30 PM at residence of John and Karin Morris, 10408 Westwood Lane SW for property review with the Cass County Board of Adjustment; reconvened at 3:15 PM at the Fairview Town Hall.

John and Karin Morris have applied for an "After the Fact" variance covering a garage that does not meet the required right-of-way of a public roadway. (Land Use Ordinance Section 1126.1B) Requires a structure to be 20 feet from the right-of-way of a public roadway.

Located on the property is a (county constructed?) culvert which empties out onto Gull Lake. Water runoff from Westwood Shores Road is funneled into this culvert.

The Commission discussed the set-back and agreed that it really wasn't a major issue since that portion of the road is not designated as a Township road . However, the garage was constructed on top of the area that was originally designated as the alternate septic site.

Since the garage was built without a permit or prior approval there was discussion on about having the Morris's pay an inflated penalty that would cover the expenses of the Board of Adjustment and our Planning Commission. However, Cass County has no way of passing those excess funds on to the Township so there would be no point in the request.

The Commission agreed to send the ESD a letter requesting that the Morris's be required to identify, and have approved, an alternate drainfield.

If the newly approved drainfield site is adjacent to the current drainage culvert then the Board of Adjustment should require them to follow the best possible stormwater retention practices and take measures to impede the flow of runoff by creating a rain garden or whatever would work best.

*Respectfully submitted,
Marla Yoho*

Cass County Board of Adjustment Met November 9, 2009

MS/P Wetzel/Kostial to approve the "after-the-fact" public road right-of-way encroachment of the garage located on PID# 14-397-0170 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 garage is not visible from the lake.
2. The township does not maintain the portion of the roadway of the encroachment.
3. The area of the encroachment is 32 square feet is not significant.
4. The Size and location of the encroachment does not affect land use of the area.
5. The size and location of the encroachment does not affect land use of the area.
6. The size and location of the encroachment does not affect adjacent properties.
7. Financial consideration is not the sole basis of the application.
8. The request is not a substantial variation from the Land Use Ordinance Standards.
9. Approval will not affect or require additional governmental services.

Conditions:

1. As recommended by the Fairview Township Planning Commission, the applicants must identify
for ESD review and approval an alternate SSTS treatment area of the lot prior to recording.
2. As recommended by the Fairview Township Planning Commission, if the applicants must in the future locate a drain field near the rock spillway that they employ best management practices for storm water management by slowing and containing run-off with berms and rain gardens.