

## **Fairview Township Planning Commission**

### **January 4<sup>th</sup>, 2011**

*In attendance: Ken LaPorte, Tom Dechmann, Joe Fitterer, Steve Williams*

*Meeting called to order at 12:30 PM by Chairman Ken LaPorte.*

*The Commission met for the purpose of discussing two notifications received from Cass County ESD.*

#### ***William & Judy LaTour Variance Application***

*Parcel: 14-386-0140*

*Application to be allowed to retain an "after the fact" privacy fence located 10 feet from the top of a bluff. Land Use Ordinance requires structures to be located 30 feet from the top of a bluff.*

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

*The Fairview Planning Commission discussed the events surrounding this variance request, taking into consideration the past neighborhood history, the placement of the large boulders on the easement and the fact that the property owners on the adjacent lot have recently been granted a variance to build an entire structure located 12 feet from the top of the same bluff. The Planning Commission considers the LaTour fence to be, in essence, a privacy shield.*

*Joe Fitterer made a motion to approve the variance request as stated above; seconded by Steve Williams. Motion carried unanimously. Tom Dechmann was in agreement with the findings.*

*The Commission also agreed to add the following option to the letter of approval: In the event the Cass County Board of Adjustment decides against approving the variance, then the Fairview Planning Commission would recommend that the LaTours be allowed to plant trees along the property line to provide a privacy screen. These trees should be of an appropriate height and foliage and be unaltered by the owners of the adjoining lot.*

*Also, the adjacent land owner should be required to remove the orange snow fence or apply for a permit to keep it but it should be necessary to meet the proper setbacks.*

#### ***"Villevilla Pillsbury Forest Stables" Preliminary Minor Subdivision Plat Application***

*Parcel: 14-112-1102*

*Application to create a minor subdivision of three lots. Proposed lots would be 9.5, 4.8 and 4.8 acres respectively and would be located in an area zoned RR 2.5.*

*The Fairview Township Planning Commission is familiar with the property and had an opportunity to discuss the proposed Subdivision at their meeting on January 4, 2011.*

*Joe Fitterer made a motion to approve the creation of the "Villevilla Pillsbury Forest Stables" Minor Subdivision as long as all conditions for Animal Density Regulations are met as set forth in the 2010*

*Land Use Regulations. Steve Williams seconded the motion and it was carried unanimously. Tom Dechmann was in agreement with the decision.*

*General Discussion:*

*There was some discussion about the By-Laws and the fact that Tom Dechmann, as an ex-officio member of the Commission representing the Board of Supervisors, cannot officially vote on the decisions made by the Commission.*

*Also, the notification of the date of Review and the date of the Board of Adjustment meetings do not allow the Commission the opportunity to present their findings to the Board of Supervisors and to get the approval of the Board to Cass County ESD in a timely manner. There is usually only a one week (sometimes less) notice of the Review date, which is held one week before the meeting of the Board of Adjustment. These dates often do not coincide with the Monthly Board meeting.*

*At the next Board of Supervisors meeting the Clerk will approach the Board with the following suggestions:*

*1) In the event of time constraint, if the ex-officio member is in favor of the findings of the Commission, then the Commission opinion may be submitted to the Cass County ESD. If the ex-officio member does not agree with the findings of the Commission or if the issue requires discussion with the Board of Supervisors, then either a special meeting will be called or the issue will be held for the next Board meeting if time will permit.*

*2) In the event of time constraint and an issue where there is a split vote between the members of the Commission, the ex-officio member may vote to carry the decision one way or the other to enable providing an opinion to Cass County for the Board of Adjustment meeting.*

*Joe Fitterer made a motion to adjourn at 1:45; Steve Williams seconded the motion and it was carried.*

*Respectfully submitted,  
Marla Yoho, Clerk*

## **LaTour**

Letter sent to Cass County Planning Commission

Paul Fairbanks ESD  
Cass County Courthouse  
PO Box 3000  
Walker, MN 56484

January 4, 2011

Re: William & Judy LaTour Variance Application  
Parcel: 14-386-0140

Application to be allowed to retain an "after the fact" privacy fence located 10 feet from the top of a bluff. Land Use Ordinance requires structures to be located 30 feet from the top of a bluff.

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

The Fairview Planning Commission discussed the events surrounding this variance request, taking into consideration the past neighborhood history, the placement of the large boulders on the easement and the fact that the property owners on the adjacent lot have recently been granted a variance to build an entire structure located 12 feet from the top of the same bluff. The Planning Commission considers the LaTour fence to be, in essence, a privacy shield.

The Planning Commission members were in agreement that the variance should be granted.

In the event the Cass County Board of Adjustment decides against approving the variance, then the Fairview Planning Commission would recommend that the LaTours be allowed to plant trees along the property line to provide a privacy screen. These trees should be of an appropriate height and foliage and be unaltered by the owners of the adjoining lot.

If the LaTour fence is not allowed to remain then the "temporary" orange snow fence, currently located on the property line, should also be removed or that property owner should have to apply for a permit to place the fence at the proper setback.

The Cass County Planning Commission/ Board of Adjustment conducted their regular meeting January 11, 2011 in Backus. The following are their findings on the LaTour application from that meeting:

LaTour, Judy & William, Fairview Township on property described as Lot 6, Blk 1, "Hunters Point Estates", Section 18-134-29, PID # 14-386-0140 located at 2059 Perch Lane SW. An application submitted "after the fact" to be allowed to retain an 8 feet high x 16 feet long privacy fence located 10 feet from the top of a bluff and at a property boundary line. The property contains .47 acre riparian to Gull Lake (GD). Section 1126. 1. B. of the Land Use Ordinance requires structures to be located 30 feet from the top or toe of a bluff and 10 feet from a property boundary line. A bluff is a topographic feature located either part or fully within the shoreland area and having the following characteristics; the slope rises at least 25 feet vertically above the toe of the bluff, the grade of the slope from toe of the bluff to a point 25 feet or more above the toe of the bluff averages 30% or greater and the slope drains toward public waters. Section 1126.10 of the Land Use Ordinance establishes maximum fence height of 6 feet.

PC members were at the site 01/03/11. 34 notices of the application were mailed. One response from Fairview Township recommending approval along with one from an adjacent property owner urging denial of the application was received. The application was reviewed and discussed with Judy and Bill LaTour which centered upon the circumstances leading up to the construction of the fence.

MS/P Ballenthin/Moore to deny allowing the applicant to retain the privacy fence constructed without applicable permits and not at applicable setbacks which is located upon PID # 14-386-0140 upon review of Section 800 of the Land Use Ordinance (01/10/10) along with criteria established by court decisions with the following findings and conditions.

Findings:

1. The applicants willfully and purposely constructed the fence without the applicable permit and disregard of required setback standards.
2. There is no appreciable need for a privacy fence from the adjacent lot which is undeveloped.
3. There is no indication that similar privacy fencing is typical at neighboring properties therefore it is unusual for the area.
4. Applicable permits were not obtained, the fence is not a substantial structure, it can be removed without substantial difficulty therefore denial of the variance will not harm or deny the interests of justice.

Condition:

The fence shall be removed or placed at applicable setback with permit no later than 05/01/11.

**VILLELLA PLAT**

Letter sent to Cass County Planning Commission:

Paul Fairbanks, ESD  
Cass County Courthouse  
January 4, 2011

Re: "Villella Pillsbury Forest Stables" Preliminary Minor Subdivision Plat Application  
Parcel: 14-112-1102

Application to create a minor subdivision of three lots.

Proposed lots would be 9.5, 4.8 and 4.8 acres respectively and would be located in an area zoned RR 2.5.

The Fairview Township Planning Commission is familiar with the property and had an opportunity to discuss the proposed Subdivision at their meeting on January 4, 2011.

The Fairview Planning Commission approved the creation of the "Villella Pillsbury Forest Stables" Minor Subdivision as long as all conditions for Animal Density Regulations are met as set forth in the 2010 Land Use Regulations.