

Fairview Township Planning Commission February 7th, 2011-Lillehei

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

Meeting called to order at 3:15 PM by Chairman Ken LaPorte.

The Commission met for the purpose of discussing a variance application as follows:

Anne & Kevin Lillehei

Parcel: 14-387-0130, 2096 Bluebill Lane SW

Application submitted to expand a non-conforming residence with a 12 feet x 15 feet two level addition and a 15 feet x 17 feet attached garage with a 10 feet wide access ramp to the residence all to be located on the non-lakeside of the residence. The residence is non-conforming because it is located 38 feet from the water. Section 1115.3 B of the Land Use Ordinance requires a variance to expand a non-conforming residence. The property contains .6 acre riparian to Gull Lake (GD).

The Fairview Township Planning Commission had an opportunity to review the Lillehei property on February 7th with the Cass County Board of Adjustment.

The Fairview Planning Commission discussed the conditions surrounding the application and composed the following letter:

*Paul Fairbanks, ESD
Cass County Courthouse
February 7, 2011*

Re: Anne & Kevin Lillehei Variance Application

*Parcel: 14-387-0130
2096 Bluebill Lane SW*

Application to expand a non-conforming residence with a 12' by 15' two level addition and a 15' by 17' attached garage with a 10 foot wide access ramp to the residence on the non-lakeside of the house. The structure is a non-conforming residence. The property contains .6 acre riparian to Gull Lake.

The Fairview Township Planning Commission had an opportunity to review the Lillehei property on February 4th with the Cass County Board of Adjustment.

The Planning Commission discussed the application and the members agreed the variance should be approved if the percentage of impervious surface on this lot, after additions, falls within the guidelines of a .6 acre lot.

The Cass County Planning Commission/ Board of Adjustment conducted their regular meeting on February 14, 2011 in Backus. The following summarizes their findings:

Lillehei, Anne & Kevin, Fairview Township on property described as Lot 6, Blk 1, "Hunters Point Estates 1st Addition", Section 13-134-29, PID # 14-387-0130 located at 2096 Bluebill Lane SW.

An application submitted to expand a non-conforming residence with a 12 feet x 15 feet two level addition and a 15 feet x 17 attached garage with a 10 feet wide access ramp all to be located on the non-lakeside of the residence. The expansion is intended to provide for family members with physical disabilities. The residence is non-conforming because it is located 38 feet from the water. Section 1126.1 A. of the Land Use Ordinance requires structures to be located 100 feet from lakes classified Recreational Development (RD). Section 1126.1 B. allows for new driveways to be located 10 feet from property line. The property contains .6 acre riparian to Gull Lake (GD).

PC members were at the site 02/07/11. 65 notices of the application were mailed. One response from Fairview township recommending approval of the application was received. The application was discussed and reviewed with Ms. Lillehei and the contractor Mr. Kranz.

Discussion centered on the issue of use/area variance along with the applicants' desire to expand based upon family needs with consensus that the application, as determined in similar situations and per legal advice, could be considered by the reasonable use standard.

MS/P Ballenthin/Gould to table consideration of the application until the 03/14/11 meeting in order for the applicants to revise their application to reflect and verify that their expansion is required to accommodate the needs of physically disabled family members and that the proposed expansion will be constructed to ADA standards.

The following summarizes the findings of the Cass County Planning Commission/ Board of Adjustment meeting held on March 14, 2011 in Backus:

Lillehei, Anne & Kevin, Fairview Township on property described as Lot 6, Blk 1, "Hunters Point Estates 1st Addition", Section 13-134-29, PID # 14-387-0130 located at 2096 Bluebill Lane SW.

An application submitted to expand a non-conforming residence with a 12 feet x 15 feet two level addition and a 15 feet x 17 attached garage with a 10 feet wide access ramp all to be located on the non-lakeside of the residence. The expansion is intended to provide for family members with physical disabilities. The residence is non-conforming because it is located 38 feet from the water. Section 1126.1 A. of the Land Use Ordinance requires

structures to be located 100 feet from lakes classified Recreational Development (RD). Section 1126.1 B. allows for new driveways to be located 10 feet from property line. The property contains .6 acre riparian to Gull Lake (GD).

Consideration of this application was tabled during the 02/14/11 meeting in order for the applicants to verify the needs of physically disabled family members. The garage/access ramp portion of the application has been withdrawn by the applicants. PC members were at the site 02/07/11. 65 notices of the application were mailed for the 02/14/11 and 03/14/11 meetings.

One response from Fairview Township and one from neighboring property owners both recommending approval of the application were received in response to the 02/14/11 meeting mailing. No additional responses were received from the mailing for the 03/13/11 meeting. The application was discussed and reviewed with Ms. Lillehei and the contractor Mr. Kranz.

MS/P Moore/Bliss to approve the expansion of the residence located upon PID # 14-387-0130 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. There is no indication or evidence that the existing location and configuration of the structures affect ground or surface water.
2. There is no indication or evidence that the existing location and configuration of the structure affect area land use because similar residential uses are located along Bluebill Lane and the expansion will be mostly not visible from neighboring property.
3. The existing location and configuration of the structures have no bearing to the need or demand for governmental services because the property already has direct access to Bluebill Lane and is not nor will it be connected to municipal or community waste water treatment system.
4. The expansion will not be visible from the lake.
5. The expansion is required to accommodate the needs of one of the residents' physical disability.
6. In light of the findings and the physical needs of the residents, allowing the variance will serve the interests of justice.

NOTICE TO APPLICANT: If the following conditions are included, 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 expansion shall not exceed the dimensions shown on the site plan submitted 02/25/11.
2. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal 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, 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 such as rain gardens shall be installed to retain structure run-off and prevent run-off to the lake, the access road, and adjoining properties.
5. Shore vegetation shall be installed and maintained in a buffer area, subject to a 14 feet 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. A buffer within an area defined in the plan and approved by ESD.
- b. A buffer meeting the preceding conditions and approved by ESD.
- c. Restoration or installation of a berm approved by ESD.

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

6. Applicants consent to inspection of the property from time to time by ESD to verify compliance with all conditions.

7. The applicant must provide to ESD verification per architect or engineer that the expansion is in compliance with physical disability size standards which must be submitted prior to permit issuance.

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.