



Le Sueur County, MN

Thursday, September 13, 2018

Regular session

Item 1

**Approved September 13, 2018 Planning Commission Meeting
Minutes**

Staff Contact: Joshua Mankowski or Michelle R. Mettler

LE SUEUR COUNTY PLANNING AND ZONING COMMISSION
88 SOUTH PARK AVE.
LE CENTER, MINNESOTA 56057
September 13, 2018

MEMBERS PRESENT: Don Reak, Jeanne Doheny, Shirley Katzenmeyer,
Al Gehrke, Pam Tietz,

MEMBERS ABSENT: Don Rynda, Doug Krenik, Commissioner King

OTHERS PRESENT: Joshua Mankowski, Commissioner Steven Rohlffing

1. The meeting was called to order at 7:00 by Chairperson, Jeanne Doheny.
2. Agenda. Motion to approve agenda was made by Shirley Katzenmeyer. Second by Don Reak. Approved.
3. Minutes from August 9, 2018 Meeting. Motion to approve minutes, was made by Don Reak. Second by Pam Tietz. Approved.

Minutes from August 23, 2018 Meeting. Motion to approve minutes, was made by Don Reak. Second by Shirley Katzenmeyer. Approved.

4. Applications

ITEM #1: JAMES & JANE WILLIAMS, ST PETER, MN, (APPLICANT/OWNER): Request that the County grant a Conditional Use Permit to allow grading, excavating, and filling of 1008.5 cubic yards of material for the repair of an existing boat house, stairs and retaining wall located within the bluff and shore impact zone in a Recreational Residential "RR" District on Lake Washington, a Recreational Development "RD" lake. Property is located at Lot 22, Block 1, Da Mar Estates, Section 6, Washington Township.

Joshua Mankowski presented power point presentation. Jane Williams was present for the application.

TOWNSHIP: Notified. Response None

DNR: Notified. Response None

LETTERS: Holly Kalbus, Environmental Resources Specialist regarding recommendation for approval with conditions. 1. The stairway that is to be replaced and the proposed 8 additional steps should be constructed with wood in order to reduce the amount of disturbance to the bluff and shore impact zone. 2. If trees are removed due to construction, replacement trees at least 2 inches in diameter and 4.5 feet tall should be planted.

PUBLIC COMMENT: None

Discussion was held regarding: Jane Williams stated that at the last meeting, a statement was made that it would be more detrimental to leave the structure cave in. Jeanne Doheny asked Jane Williams to clarify what was meant by last meeting. Is this in reference to the Board of Adjustment Meeting. Jane Williams conferred. Don Reak asked why the project needed to a Variance. Joshua Mankowski clarified that the boat house did not meet setback

requirements. Don Reak then asked if the plan was to repair or replace the structure. Jane Williams responded repair. Jeanne Doheny stated that what was there now was dangerous to traverse, the back wall is buckling, and that repairing the existing structure would be preferred over replacing it because there would be less material movement. Jeanne Doheny then asked the applicant about their expected timeline. Jane Williams responded that they hope to get everything done this fall, before everything freezes. Don Reak asked if the plan was to replace the steps with wood. Jane Williams replied that she thought Holly Kalbus originally recommended paver stones but now recommended wood. If we used landscaping timbers, there would be less disturbance to the ground. Don Reak asked for some clarification on the plan, it appears that the steps around the boat house are being removed. Jane Williams responded yes. Shirley Katzenmeyer asked if they did plan to remove any trees. Jane Williams answered that they didn't want to but that the roots for one tree may be impacted. Jeanne Doheny asked Joshua Mankowski if they could change the should be to stall in Holly Kalbus' recommended conditions. Joshua Mankowski stated that the Board can make that change and that Holly Kalbus' recommendation for the tree replacement is the County's policy on tree replacement. Don Reak stated that when he initially read the application he thought the amount of material movement was a lot. Jeanne Doheny asked if any additional fill was being brought in. Jane Williams responded no, just for rebuilding the wall. Pam Tietz asked about the area to be graded by the house. Application states 52x50-foot area near the garage and a 20-foot section in front of the house will be graded. What will it be graded too? Jane Williams responded that it will be graded just enough to redirect water away from the structure. Pam Tietz asked if that material movement was included in the total on the application. Jane Williams responded yes, she believes she included that in the total, but that area is not in the bluff. It is near the road. Joshua Mankowski clarified that there only a maximum of 50 cubic yards of material that can be moved lot total in the RR District.

Findings by majority roll call vote:

1. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity. **Will be an improvement to the property.***
2. *The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area. **There will be no adverse impact to the surrounding area.***
3. *Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
4. *Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
5. *Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
6. *The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance. **Proposal appears to be the best options with the least impact to the bluff.***
7. *The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

Motion was made by Al Gehrke to approve the application with the following conditions. 1. The stairway that is to be replaced and the proposed 8 additional steps shall be constructed with wood in order to reduce the amount of disturbance to the bluff and shore impact zone. 2. If trees are removed due to construction, replacement trees at least 2 inches in diameter and 4.5 feet tall shall be planted.

Second by Shirley Katzenmeyer. Motion approved. Motion carried.

ITEM #2: ADAM NESBIT, NEW PRAGUE, MN, (APPLICANT/OWNER): Request that the County grant a Conditional Use Permit to allow the applicant to transfer the development right from the NE 1/4 of the NW 1/4 to the NW 1/4 of the NE 1/4 in an Agriculture "A" District. Property is located in the NW quarter and NE quarter, Section 13, Derrynane Township.

Joshua Mankowski presented power point presentation. Randy Kubes was present for the application.

TOWNSHIP: Notified. Response None

DNR: Notified. Response None

LETTERS: None

PUBLIC COMMENT: None

Discussion was held regarding: Randy Kubes stated that this is why we have the Transfer of Development Right (TDR). Transfer the TDR from an area in active production to an area that is cut off by a drainage ditch. The access has already been approved for three homes. This will move the eligibility from highly productive land to less productive land. Randy Kubes also wanted to clarify, the area on the map that is labeled as flood plain is normally dry but water can back up from the ditch and flood this area. Don Reak wanted to go on record to state that the TDR is a good thing. Pam Tietz asked for some clarification, there are two driveways but three lots. Randy Kubes explained that they had gotten two driveway permits. All the owners ended up knowing each other so they decided to share. The plan grants 66 feet of Right of Way. We are eliminating one of the driveways. Pam Tietz asked if each driveway needed a 60'x60' turn-around. Randy Kubes explained that they have it at the end, they have the required clearance and they are level.

Findings by majority roll call vote:

- 1. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*
- 2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
- 3. Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
- 4. Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
- 5. Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
- 6. The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
- 7. The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

Motion was made by Pam Tietz to approve the application. Reason for approval is that doing this TDR is good for the agricultural ground.

Second by Shirley Katzenmeyer. Motion approved. Motion carried.

ITEM #3: MICHAEL & SHELLY MILLER, CLEVELAND, MN, (APPLICANT\OWNER):
Request that the County grant a Conditional Use Permit to allow grading, excavating, and filling of 1454 cubic yards of material in a Recreational Residential "RR" District. Property is located at Revised Lots 50 & 51, Auditor's Subdivision, Section 6, Elysian Township.

Joshua Mankowski presented power point presentation. Michael Miller was present for the application.

TOWNSHIP: Notified. Response None

DNR: Notified. Response None

LETTERS: Holly Kalbus, Environmental Resources Specialist regarding recommendation for approval with conditions. 1. If current runoff and drainage issues do not improve after project is installed, work with Environmental Services Department staff to address the issues.

PUBLIC COMMENT: None

Discussion was held regarding: Don Reak asked for clarification on something that was depicted on the plan. Michael Miller informed the Board that the structure in questions was a fire pit. Michael Miller stated that, since they purchased the parcel and planted grass, the water running off the area has been much cleaner. In talking with Mike Schultz, Le Sueur County Soil and Water Conservation District (SWCD), there are also plans to install some check dams to slow the water down even more to help improve water quality. Don Reak inquired about the planned location of the check dams. Michael Miller responded after the driveway culvert. Don Reak then asked for clarification on the current direction of the run-off waters. Michael Miller showed the water's path on the drawing and that it then flows to the lake. Don Reak asked if there were plans to install swales. Michael Miller responded no, will have a ditch along the road. Don Reak asked the applicant if he thought that this project would improve the flow, it didn't seem from Holly Kalbus' letter that she was sure if that. Michael Miller stated that he believes it will. There already was an improvement just from planting grass in the area. There won't be any additional issues. Michael Miller then explained, how in the past when the area in questions was in crop production, how there was a lot of sediment that was carried by the runoff and that they have noticed a lot of improvement since switching that area to grass. Pam Tietz asked the applicant if the proposed driveway will be for use by the applicant or will it be used for access for other homes on French Dr. Michael Miller stated that it is for his use. The road would need to be larger in order to meet County requirements. Jeanne Doheny asked if the water negatively impacted any of the other homes. Michael Miller explained that the water did not impact the homes as much as the garages on that side of the road. The runoff would sediment in the swale and run up the sides of the garages. Jeanne Doheny asked what the applicant might do if the water issue isn't improved by completing the project. Michael Miller explained that some work would need to be done on the ditch that leads from the field to better handle the water including deepening the ditch and installing riprap. Jeanne Doheny asked if it was a county ditch. Michael Miller explained that the ditch is on private property and runs through an easement. Michael Miller then went on to describe some of the other options as discussed with Mike Schultz including sediment ponds on drain tile. Al Gehrke explained that he had seen a lot of success in the past in areas like this with installing drain tile. Jeanne Doheny stated that is something that can be discussed.

Findings by majority roll call vote:

- 1. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*
- 2. The establishment of the conditional use will not impede the normal and orderly development and*

improvement of surrounding vacant property for uses predominant in the area.

3. *Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
4. *Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
5. *Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
6. *The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
7. *The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

Discussion was held about the conditions that should be imposed if the application is approved.

Motion was made by Shirley Katzenmeyer to approve the application with the following condition. 1. If current runoff and drainage issues do not improve after project is installed, work with Environmental Services Department and Soil and Water Conservation District staff to address the issues.

Second by Al Gehrke. Motion approved. Motion carried.

ITEM #4: RUSS GUYER & DEANNA WEIS, AUSTIN, MN, (APPLICANT/OWNER): Request that the County grant an After-The-Fact Conditional Use Permit to allow grading, excavating, and filling of 54.9 cubic yards within the shore impact zone; 38.8 cubic yards within the bluff impact zone; 106.1 cubic yards within the bluff; total of 145 cubic yards on the lot for a shoreland project to for the construction of a path and retaining walls a Recreational Residential "RR" District on Lake Jefferson, a Recreational Development "RD" lake. Property is located at Lot 35, Roemer's Cove, Section 7, Elysian Township.

Joshua Mankowski presented power point presentation. Russ Guyer & Diana Weis were present for the application.

TOWNSHIP: Notified. Response None

DNR: Notified. Response None

LETTERS: Holly Kalbus, Environmental Resources Specialist regarding recommendation for approval with conditions. 1. If trees are removed due to construction, replacement trees at least 2 inches in diameter and 4.5 feet tall should be planted. 2. Plant vegetation that is native to Minnesota in order to prevent runoff and erosion into Lake Jefferson. Native vegetation will protect the bluff and provide slope stability.

PUBLIC COMMENT: None

Discussion was held regarding: Russ Guyer explained that they were seeking approval to complete restoration of the bluff and provide a safe access to the lake. When they purchased the property they were told they would be able to use the neighbor's access. After purchasing, they realized the access was unsafe and that they did not have permission from the neighbor to use the access. The bluff on their property was too steep to walk down to gain access to the lake. Creating a path down to the lake seemed a viable option to gain access for themselves and the lawnmower. After starting the work, it was brought to their attention that they needed approval for this type of work. Jeanne Doheny asked Russ Guyer if they lived on the property fulltime. Russ responded no, just during the summer. Jeanne Doheny asked if he had done the work himself. Russ Guyer replied that he did. Pam Tietz stated that she thought there was a landscaper from North Dakota that was involved according to the application. Russ Guyer stated that he is a relative and

recommended the use of retaining walls. Jeanne Doheny asked about tree removal. Russ Guyer stated there was one tree done when they purchased the property and they removed one tree that was in the path. The trees will be replaced. Jeanne Doheny inquired about the anticipated time to complete the project. Russ Guyer responded that they need to do the retaining walls. Jeanne Doheny asked if he was going to do the walls himself. Russ Guyer said yes. Jeanne Doheny asked if there was any assurance that the walls will work. Russ Guyer responded that they will work because they are terraced, they are stepped. Pam Tietz asked if the walls were going to be constructed with boulders. Boulders and they think they will use landscaping block in some places too. Jeanne Doheny asked if the design was the applicant's or Bolton & Menk's. Bolton & Menk replied Russ Guyer. Pam Tietz asked for clarification on the material for wall construction. Russ Guyer responded that boulders will be used for the walls in the bluff at the top and landscaping block will be used at the bottom. Pam Tietz asked how the boulder walls will be stabilized at the top of the bluff. How is bluff stability being maintained? Russ Guyer said he would know more once he does the work. The boulders will be placed against the bank and tile will be installed behind the boulders. Landscaping fabric and crush walked will be installed on top of the tile to convey water. Don Reak asked about the location of the tile outlets. Russ Guyer stated that they would outlet at the ends of the terraces. Don Reak stated that it would have been a lot easier to have just installed steps. Russ Guyer responded that probably would have been. Don Reak said the pictures of this project almost made him want to cry. They looked terrible. Russ Guyer explained that they had a lot of trouble getting up and down to the lake and getting the mower down there was easy but getting it back up for difficult. Don Reak asked if the applicant mowed the bank. Russ Guyer responded no, that they mowed down by the lake. There is about eight feet down there that is flat. Don Reak stated that he didn't know how the applicant is going to do this project himself, this is a huge job. Jeanne Doheny and Pam Tietz agreed. Don Reak recommended a contractor. Russ Guyer responded that he does have help. He has son-in-laws and that he has an idea of what to do. Don Reak retorted that he had an idea of doing this project and look how that turned out. Don Reak asked the chair, Jeanne Doheny, if they could require the applicant to contact a contractor to help complete the project. Jeanne Doheny mulled the questions and then asked Joshua Mankowski if that was a viable condition. Joshua Mankowski responded that he hadn't looked into requiring the use of a contractor but he didn't think that condition could be added. Pam Tietz brought up the fact that the applicant had consulted with a former contractor that worked for a landscaping company. Pam Tietz asked if that was one of his son-in-laws. Russ Guyer said it was his son. Pam Tietz asked about the availability of equipment. Russ Guyer stated that they have a skid loader and that should be all that is needed. Pam Tietz then inquired about who will be monitoring the project, is that Environmental Services. Joshua Mankowski responded that Environmental Services doesn't normally check and certify construction like this. In the past, staff has gone out to check on projects of concern. Russ Guyer stated that you, referring to Joshua Mankowski, did check on all the erosion control that they had installed. Joshua Mankowski replied in the affirmative, the department had recommended erosion control blanket be installed on the site and the applicant did install erosion control blankets. The site was covered. Pam Tietz said that is partly why she is concerned. The erosion control wasn't there before it was recommended, so she is worried about every step. Russ Guyer responded that you have his word that the construction will be done as described. We want the property to be useful so we can enjoy it and we couldn't get from the top to the bottom stated Russ Guyer. Al Gehrke stated that the project was started and now it needs to be finished. Don Reak asked if the retaining wall was designed by an engineer, by Bolton & Menk. Russ Guyer said it was. Al Gehrke stated that the tile needs to be installed or the walls will fail. Shirley asked the applicant if they will construct the walls as designed by Bolton & Menk. Russ Guyer said he would. Don Reak asked if the project will be done this fall. Russ Guyer responded that they plan too, they have been on hold all summer because of all the hoops they had to jump through. Al Gehrke and Don Reak both said they would like to see what the project looks like when it is done. A letter from Holly Kalbus, Environmental Resources Specialist was read into record. Jeanne Doheny said to the applicant that he had receive a letter about the violation almost a year ago, what took so long to get to this point. Russ Guyer stated that he didn't know, Planning and Zoning kept putting it off. Joshua Mankowski stated that there were complications in getting a complete application. The applicant went to Texas during the winter, staff told them not to worry about getting on a meeting while they were gone but

to keep working on the application for when they came back. Then there were complications with obtaining a complete application. Once the application was complete, it was scheduled for a meeting. Don Reak asked what would be used on the path down to the lake. Russ Guyer said it would be grass, it is already grassed. Grass was seeded down when the blankets were installed. Don Reak reiterated that this is a huge job. Jeanne Doheny said to the applicant that you can tell we are little apprehensive; you tell us you are going to do this and that all the steps are going to be taken. Russ Guyer responded that he is going to do this and he had already paid the fine and he has good intentions about finishing this project. Jeanne Doheny reminded the applicant that the Conditional Use Permit is only good for one year. Shirley Katzenmeyer asked the applicant what his back-up plan was if he finds the project is too much for himself. Russ Guyer responded Deanna, refereeing to Deanna Weis, was his back-up. Dianna Weis asked when the one-year start. Joshua Mankowski said it starts after the County Board meeting. Dianna Weis was concerned that the timeframe started from last year when they received stop-work order. They wouldn't be able to finish the project in one month. Jeanne Doheny informed the applicants that they do have the option of requesting an extension if they don't think they will be done in time. Don Reak voiced concern about possible tile lines on the project site that appear to be exposed during the construction. Russ Guyer stated that the area was used as a landfill before they purchased it. They dug up a number of items on the site. Pam Tietz raised concern about access to the lake once the project is done. Russ Guyer responded that they will use the grassed path between the retaining walls. Pam Tietz asked for clarification about the path. Russ Guyer responded that it will be a grassed path that they use to access the lake. Pam Tietz asked if there were plans to install railings. Russ Guyer responded no, the walls are only planned to be approximately three feet high. Continued discussion about the safety of using the grassed path to access the lake. Shirley Katzenmeyer asked what will prevent erosion issues on the site. Russ Guyer responded that it will be grassed. Shirley Katzenmeyer expressed continued concern about erosion issues caused by runoff. Russ Guyer responded that the retaining walls and terraces will stop the water. Shirley Katzenmeyer stated that she thinks this type of project would have worked better in the past. She has more of a concern with our changed rain pattern, receiving larger amounts of rain at once. Al Gehrke recommended the applicant have a back-up plan, maybe steps. Russ Guyer stated it is difficult to move a lawnmower up and down steps. Pam Tietz asked the applicant if he had worked with Environmental Service about the possibility of planting different vegetation down by the lake. Russ Guyer responded yes, Holly Kalbus has recommended wild flowers and plants and grasses. Pam Tietz then said you wouldn't have to mow down there if you had that type of vegetation. Russ Guyer said it is lawn clear down to the lake and that needs to be mowed. Pam Tietz reiterated that she is still concerned about the applicants' safety, not having hand rails. Russ Guyer stated that the access they were told they could use by the realtor didn't have handrails. Pam Tietz said that this would be an opportunity to address this issue. Russ Guyer said they could install handrails. Jeanne Doheny asked if the grassed path was part of the design put together by Bolton & Menk. Russ Guyer said yes. The path is in two different levels. Jeanne Doheny clarified that the path is in two different levels. Russ Guyer responded yes. Don Reak referred to the flat area between two of the retaining walls on the plans. He asked if this is a flat area or area that is already flat. Russ Guyer responded yes. Don Reak then asked if the applicant had hauled some dirt offsite. Russ Guyer replied no, they spread it out. Don Reak then asked if that is where the flat area had come from. Russ Guyer said yes. Don Reak stated he can see how this design will work but he is concerned about the applicant doing the project and getting it completed. Don Reak clarified that the path will only be four feet wide. Russ Guyer said that was right. Pam Tietz wanted to go back to discussing the native plants and flowers. According to the plans, none of the native vegetation is being placed by the water. It is all being planted on the first landing? Russ Guyer responded that there is still a bank that will need to have wild flowers planted on it. We didn't change that area; we will plant wild flowers in it. Pam Tietz spoke with Russ Guyer on clarifying where the different native plants and turf grasses are planned to be planted. Pam Tietz asked how the shoreline was disturbed. Russ Guyer said it was left the way it was.

Findings by majority roll call vote:

1. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*
2. *The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
3. *Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
4. *Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
5. *Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
6. *The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance. **Health and Safety of the owner is an issue. This project needs to be finished and can't be left as is.***
7. *The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

Discussion was held on the conditions that should be listed for approval and if they should require handrails.

Motion was made by Don Reak to approve the application with the following conditions. 1. If trees are removed due to construction, replacement trees at least 2 inches in diameter and 4.5 feet tall shall be planted. 2. Plant vegetation that is native to Minnesota in order to prevent runoff and erosion into Lake Jefferson. Native vegetation will protect the bluff and provide slope stability. 3. Adequate erosion control will be provided during and after construction.

Second by Al Gehrke. Motion approved. Motion carried.

5. Discussion Items: None
6. Warrants/Claim-signatures.
7. Motion to adjourn meeting by Pam Tietz. Second by Shirley Katzenmeyer. Motion approved. Motion carried.

Respectfully submitted,

Joshua Mankowski

APPROVED OCTOBER 11, 2018

***Tape of meeting is on file in the
Le Sueur County Environmental Services Office***