



Le Sueur County, MN

Tuesday, January 22, 2019

Board Meeting

Item 2

9:05 a.m. Joshua Mankowski, P&Z

RE: Request for Action

Staff Contact:

LE SUEUR COUNTY PLANNING AND ZONING COMMISSION
88 SOUTH PARK AVE.
LE CENTER, MINNESOTA 56057
January 10, 2019

MEMBERS PRESENT: Don Reak, Jeanne Doheny, Shirley Katzenmeyer,
Doug Krenik, Al Gehrke, Pam Tietz, Commissioner Glinszinski

MEMBERS ABSENT:

OTHERS PRESENT: Joshua Mankowski, Commissioner Lance Wetzel, Commissioner
Steve Rohlfing

1. The meeting was called to order at 7:00 by Chairperson Jeanne Doheny.
2. Agenda. Joshua Mankowski stated that there was an error on the public notice. The year was listed as 2018 instead of 2019. Motion to approve agenda, was made by Don Reak. Second by Doug Krenik. Approved.
3. Minutes from December 13, 2018 Meeting. Motion to approve minutes with corrections. Don Reak was not in attendance and change meet to met on the last paragraph before the motion to table the application was made by Don Reak. Second by Doug Krenik. Approved.
4. Applications

ITEM #1: ESMAIL & BARBARA MOSTAGHIMI, LE SUEUR, MN, (APPLICANT/OWNER):
Request that the County grant an After-The-Fact Conditional Use Permit to allow grading, excavating, and filling of 25.73 cubic yards within the shore impact zone, 27.93 cubic yards within the bluff, total 61.24 cubic yards on the lot for the construction of retaining walls and patio in a Recreational Residential "RR" District, and a Flood Fringe "FF" Floodplain Overlay District on Lake Tetonka, on a Recreational Development "RD" lake. Property is located in the Lot 11, Auditor's Subdivision, Section 28, Waterville Township. **(TABLED AT THE DECEMBER 13, 2018 MEETING.)**

Joshua Mankowski presented power point presentation. Esmail Mostaghimi 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. Improve the rain gardens that were previously installed by planting deep rooted Minnesota native vegetation. 2. Install rock and Minnesota native vegetation around tile intake(s) in order to help infiltrate and remove sediment from the stormwater on the property. It is recommended to plant vegetation such as grasses and forbs which have more delicate root structures and thus should not interfere with the tile. It is not recommended to plant woody vegetation such as trees and shrubs due to their dense root structures which has been proven to plug tile lines. 3. Remove concrete surface 4 in addition to the 40 square feet that is proposed to be removed by the applicant. As part of the variance that was granted in 2016, the entire concrete surface near the boat house was to be removed. By removing the concrete, conditions of the variance are being met as well as reducing runoff from impervious surface. 4. Reduce the height

of Retaining Wall 16 to be similar height to the ground level (approximately 3 landscaping timbers to be removed). The additional height does not serve any purpose for reducing runoff and erosion and providing slope stability. 5. Install erosion control measures (coir logs, erosion control blanket, etc.) on the southern half of the property, specifically on the hillside near the gravel road, in order to help prevent runoff and erosion to the applicant's property. 6. Install at least one best management practice such as a tile intake or planting deep rooted Minnesota native vegetation on the hillside near the gravel road. This should help slow down and prevent runoff and erosion to the applicant's property.

PUBLIC COMMENT: None

Discussion was held regarding: Joshua Mankowski reiterated that the conditions set by the Board of Adjustment on the variance previously granted to the applicant cannot be amended by the Planning and Zoning Commission. Esmail Mostaghimi can meet the conditions set for the variance he received, apply to the Board of Adjustment to reconsider the conditions, or address the conditions in court. It is within the power of the Planning and Zoning Commission to set their own conditions as they relate to the proposed project. Esmail Mostaghimi stated that he was not aware of the conditions that he agreed to when he received the variance. There was some discussion about Esmail Mostaghimi's plans on addressing the conditions set by the Board of Adjustment. Esmail Mostaghimi stated he would apply to the Board of Adjustment to reconsider the conditions.

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 Al Gehrke to approve the application with conditions. 1. Improve the rain gardens that were previously installed by planting deep rooted Minnesota native vegetation. 2. Install rock and Minnesota native vegetation around tile intake(s) in order to help infiltrate and remove sediment from the stormwater on the property. It is recommended to plant vegetation such as grasses and forbs which have more delicate root structures and thus should not interfere with the tile. It is not recommended to plant woody vegetation such as trees and shrubs due to their dense root structures which has been proven to plug tile lines. 3. On the property north of Mortensen Ln. where the house is located, install erosion control measures (coir logs, erosion control blanket, etc.) on the southern half of the property, specifically on the hillside near the gravel road, in order to help prevent runoff and erosion to the applicant's property. 4. On the new property on which Mortensen Ln is located, install at least one best management practice such as a tile intake or planting deep rooted Minnesota native vegetation on the hillside near the gravel road. This should help slow down and prevent runoff and erosion to the applicant's property.

Discussion was held regarding: None.

Second by Shirley Katzenmeyer. Motion approved. Motion carried.

ITEM #2: MERLE & KARI WARNER, WATERVILLE, MN (APPLICANT/OWNER); STEVEN & NANCY OLSON (OWNER): Request that the County grant an After-The-Fact Conditional Use Permit to allow grading, excavating, and filling of 28.2 cubic yards within the shore impact zone, 28.2 cubic yards within the bluff, total 28.2 cubic yards on the lot for the construction of a retaining wall in a Recreational Residential "RR" District, on Lake Tetonka, a Recreational Development "RD" lake. Property is located on Lot 3, Block 1 Warners Tetonka Addition and Unit 3, CIC # 24 Hidden Hills 1st Amendment, Section 19, Waterville Township.

Joshua Mankowski presented power point presentation. Merle & Kari Warner 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. Maintain the native vegetation that is currently growing on the bluff. The native vegetation will help with slope stability and reducing runoff and erosion.

PUBLIC COMMENT: None

Discussion was held regarding: There was some discussion about the construction of the retaining wall and future responsibility for maintenance. There was also some discussion about the other retaining walls on the property located above the wall that was replaced.

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 Shirley Katzenmeyer to approve the application with the condition listed in Holly Kalbus' letter, that the applicant maintain the native vegetation that is currently growing on the bluff. The native vegetation will help with slope stability and reducing runoff and erosion.

Discussion was held regarding: None

Second by Pam Tietz. Motion approved. Motion carried.

ITEM #3: LE SUEUR COUNTY ZONING ORDINANCE REVISIONS: CHANGES IN DEFINITIONS, BLUFF SETBACK, VIOLATIONS AND ADDITION OF SHORT TERM PRIVATE LODGING RENTAL: AFFECTING SECTION 4, DEFINITIONS; SECTION 7, CONSERVANCY; SECTION 8, AGRICULTURE; SECTION 9, URBAN/RURAL RESIDENTIAL; SECTION 10, GENERAL BUSINESS; SECTION 11, GENERAL INDUSTRY; SECTION 13, SHORELAND; SECTION 17, SUBSURFACE SEWAGE TREATMENT SYSTEMS; SECTION 18, ENVIRONMENTAL PERFORMANCE STANDARDS; SECTION 19, LAND USE PERFORMANCE STANDARDS; SECTION 30, VIOLATIONS.

Joshua Mankowski presented power point presentation.

TOWNSHIP: Notified. Response None

DNR: Notified. Response None

LETTERS: None

PUBLIC COMMENT: None

Discussion was held regarding: A brief update was given about the discussion at the last work session and that they had worked to address comments submitted by County residents prior to said work session. The wording for some of the standards was updated to address comments.

Motion was made by Doug Krenik to approve the proposed Ordinance amendments.

Discussion was held regarding: None.

Second by Shirley Katzenmeyer. Motion approved. Motion carried.

5. Discussion Items: Don Rynda has been removed from the Planning and Zoning Commission at the request of his son. He will not be able to attend and participate in future meetings.
6. Warrants/Claim-signatures.
7. Motion to adjourn meeting by Al Gehrke. Second by Don Reak. Motion approved. Motion carried.

Respectfully submitted,

Joshua Mankowski

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

LE SUEUR COUNTY PLANNING AND ZONING COMMISSION
January 22, 2019

TO: LE SUEUR COUNTY BOARD OF COMMISSIONERS

FROM: LE SUEUR COUNTY PLANNING AND ZONING COMMISSION

SUBJECT: "REQUEST FOR ACTION"

The Planning Commission recommends your action on the following items:

ITEM #1: ESMAIL & BARBARA MOSTAGHIMI, LE SUEUR, MN, (APPLICANT/OWNER): Request that the County grant an After-The-Fact Conditional Use Permit to allow grading, excavating, and filling of 25.73 cubic yards within the shore impact zone, 27.93 cubic yards within the bluff, total 61.24 cubic yards on the lot for the construction of retaining walls and patio in a Recreational Residential "RR" District, and a Flood Fringe "FF" Floodplain Overlay District on Lake Tetonka, on a Recreational Development "RD" lake. Property is located in the Lot 11, Auditor's Subdivision, Section 28, Waterville Township.

Based on the information submitted by the applicant, as required by the Le Sueur County Zoning Ordinance, the Planning Commission developed the attached findings for this request:

Therefore, the Planning Commission recommends Approval of the application with the following conditions:

1. Improve the rain gardens that were previously installed by planting deep rooted Minnesota native vegetation.
2. Install rock and Minnesota native vegetation around tile intake(s) in order to help infiltrate and remove sediment from the stormwater on the property. It is recommended to plant vegetation such as grasses and forbs which have more delicate root structures and thus should not interfere with the tile. It is not recommended to plant woody vegetation such as trees and shrubs due to their dense root structures which has been proven to plug tile lines.
3. On the property north of Mortensen Ln. where the house is located, install erosion control measures (coir logs, erosion control blanket, etc.) on the southern half of the property, specifically on the hillside near the gravel road, in order to help prevent runoff and erosion to the applicant's property.
4. On the new property on which Mortensen Ln is located, install at least one best management practice such as a tile intake or planting deep rooted Minnesota native vegetation on the hillside near the gravel road. This should help slow down and prevent runoff and erosion to the applicant's property.

ITEM #2: MERLE & KARI WARNER, WATERVILLE, MN (APPLICANT/OWNER); STEVEN & NANCY OLSON (OWNER): Request that the County grant an After-The-Fact Conditional Use Permit to allow grading, excavating, and filling of 28.2 cubic yards within the shore impact zone, 28.2 cubic yards within the bluff, total 28.2 cubic yards on the lot for the construction of a retaining wall in a Recreational Residential "RR" District, on Lake Tetonka, a Recreational Development "RD" lake. Property is located on Lot 3, Block 1 Warners Tetonka Addition and Unit 3, CIC # 24 Hidden Hills 1st Amendment, Section 19, Waterville Township

Based on the information submitted by the applicant, as required by the Le Sueur County Zoning Ordinance, the Planning Commission developed the attached findings for this request:

Therefore, the Planning Commission recommends Approval of the application with the following conditions:

1. Maintain the native vegetation that is currently growing on the bluff. The native vegetation will help with slope stability and reducing runoff and erosion.

ACTION: ITEM #1: _____
 ITEM #2: _____

DATE: _____

COUNTY ADMINISTRATOR'S SIGNATURE: _____

ITEM # 1 FINDINGS OF FACT

WHEREAS, ESMAIL & BARBARA MOSTAGHIMI, LE SUEUR, MN, (APPLICANT/OWNER) has applied for an After-The-Fact Conditional Use Permit to allow grading, excavating, and filling of 25.73 cubic yards within the shore impact zone, 27.93 cubic yards within the bluff, total 61.24 cubic yards on the lot for the construction of retaining walls and patio in a Recreational Residential “RR” District, and a Flood Fringe “FF” Floodplain Overlay District on Lake Tetonka, on a Recreational Development “RD” lake. Property is located in the Lot 11, Auditor’s Subdivision, Section 28, Waterville Township.

WHEREAS, the Le Sueur County Planning and Zoning Commission held on public hearing on January 10, 2019 in order to hear public testimony from the applicants as well as interested parties pertaining to and as provided by the Zoning Ordinance of Le Sueur County.

WHEREAS, the Le Sueur County Planning and Zoning Commission, acting as an advisory board to the Le Sueur County Board of Commissioners recommends Approval of the application due to the following findings:

- 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?*

WHEREAS, On January 22, 2019, at their regularly scheduled meeting, the Le Sueur County Board of Commissioners **APPROVED/DENIED** the After-The-Fact Conditional Use Permit application as requested by **ESMAIL & BARBARA MOSTAGHIMI, LE SUEUR, MN, (APPLICANT/OWNER).**

NOW, THEREFORE, IT IS HEREBY RESOLVED, the following Findings of Fact were adopted at the January 22, 2019 Le Sueur County Board meeting in order to protect the public health, safety and general welfare of the citizens of Le Sueur County.

- 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?*

BE IT FURTHER RESOLVED, by the Le Sueur County Board of Commissioners that based on the above Findings of Fact, an After-The-Fact Conditional Use Permit to allow grading, excavating, and filling of 25.73 cubic yards within the shore impact zone, 27.93 cubic yards within the bluff, total 61.24 cubic yards on the lot for the construction of retaining walls and patio in a Recreational Residential “RR” District, and a Flood Fringe “FF” Floodplain Overlay District on Lake Tetonka, on a Recreational Development “RD” lake. Property is located in the Lot 11, Auditor’s Subdivision, Section 28, Waterville Township., is **APPROVED/DENIED**.

ATTEST:

John King, Chairman, Le Sueur County Board of Commissioners.

Darrell Pettis, Le Sueur County Administrator

DATE: _____

ITEM # 2 FINDINGS OF FACT

WHEREAS, MERLE & KARI WARNER, WATERVILLE, MN (APPLICANT/OWNER); STEVEN & NANCY OLSON (OWNER) has applied for an After-The-Fact Conditional Use Permit to allow grading, excavating, and filling of 28.2 cubic yards within the shore impact zone, 28.2 cubic yards within the bluff, total 28.2 cubic yards on the lot for the construction of a retaining wall in a Recreational Residential “RR” District, on Lake Tetonka, a Recreational Development “RD” lake. Property is located on Lot 3, Block 1 Warners Tetonka Addition and Unit 3, CIC # 24 Hidden Hills 1st Amendment, Section 19, Waterville Township

WHEREAS, the Le Sueur County Planning and Zoning Commission held on public hearing on January 10, 2019 in order to hear public testimony from the applicants as well as interested parties pertaining to and as provided by the Zoning Ordinance of Le Sueur County.

WHEREAS, the Le Sueur County Planning and Zoning Commission, acting as an advisory board to the Le Sueur County Board of Commissioners recommends Approval of the application due to the following findings:

- 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?*

WHEREAS, On January 22, 2019, at their regularly scheduled meeting, the Le Sueur County Board of Commissioners **APPROVED/DENIED** the After-The-Fact Conditional Use Permit application as requested by **MERLE & KARI WARNER, WATERVILLE, MN (APPLICANT/OWNER); STEVEN & NANCY OLSON (OWNER).**

NOW, THEREFORE, IT IS HEREBY RESOLVED, the following Findings of Fact were adopted at the January 22, 2019 Le Sueur County Board meeting in order to protect the public health, safety and general welfare of the citizens of Le Sueur County.

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provided.

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BE IT FURTHER RESOLVED, by the Le Sueur County Board of Commissioners that based on the above Findings of Fact, an After-The-Fact Conditional Use Permit to allow grading, excavating, and filling of 28.2 cubic yards within the shore impact zone, 28.2 cubic yards within the bluff, total 28.2 cubic yards on the lot for the construction of a retaining wall in a Recreational Residential “RR” District, on Lake Tetonka, a Recreational Development “RD” lake. Property is located on Lot 3, Block 1 Warners Tetonka Addition and Unit 3, CIC # 24 Hidden Hills 1st Amendment, Section 19, Waterville Township, is **APPROVED/DENIED**.

ATTEST:

John King, Chairman, Le Sueur County Board of Commissioners.

Darrell Pettis, Le Sueur County Administrator

DATE: _____