



Le Sueur County, MN

Tuesday, August 25, 2015

Board Meeting

Item 2

9:05 a.m. Kathy Brockway, Zoning Administrator (5 minutes)

Conditional Use Permits, Request for Action

Staff Contact: Kathy Brockway - Environmental and P & Z Director

LE SUEUR COUNTY PLANNING AND ZONING COMMISSION
August 25, 2015

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: ROBERT & MONIKA RIVERS, MONTGOMERY, MN, (APPLICANT/OWNER): Request that the County grant a Conditional Use Permit to allow grading, excavating and filling of 2 cubic yards of material in the bluff for the construction of a stairway in a Recreational Residential "RR" District on a Recreational Development "RD" lake, Greenleaf Lake. Property is located at Lot 3, Block 4, Greenleaf Lake Estates, Section 20, Montgomery Township.

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

Therefore, the Planning Commission recommends approval of the application with the following condition;

- 1. That all exposed soils be stabilized immediately once the work is completed.*

ITEM #2: TIM & ANN WALSH, CLIVE IA, (APPLICANT/OWNER): Request that the County grant a Conditional Use Permit to allow grading, excavating and filling of approximately 6 cubic yards of material outside the shore impact zone, 69 cubic yards within the shore impact zone for a project total of 75 cubic yards and for the construction of 2 retaining walls in a Recreational Residential "RR" District, on a Recreational Development Lake, Lake Frances. Property is located at Lot 11, Warner's Subdivision, Section 33, Elysian Township.

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

Therefore, the Planning Commission recommends approval of the application with the following conditions;

- 1. Use landscaping fabric in order to prevent future erosion.*
- 2. Areas on the plan that are designated as vegetation buffers shall be planted with native plants.*

ITEM #3: CHRIS BIEHN, MANKATO, MN, (APPLICANT/OWNER): Requests that the County grant an After-The-Fact Conditional Use Permit to allow grading, excavating and filling of 114 cubic yards of material within the bluff, bluff impact zone and the construction of a retaining wall outside the shore impact zone in a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Jefferson. Property is located in Government Lot 7, Section 4, Washington Township.

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

Therefore, the Planning Commission recommends approval of the application with the following condition;

- 1. Reduce the existing pad to 24 wide and the length no more than 2 car lengths to be utilized as an access to the site only, (Surveyor to provide the additional material movement amount prior to the County Board meeting on August 25). The additional material movement on site will be 29 cubic yards. For a total cubic yards of 143.*
- 2. The area shall be planted with native grasses in order to stabilize the soils.*

ACTION: ITEM #1: _____

ITEM #2: _____

ITEM #3: _____

DATE: _____ COUNTY ADMINISTRATOR'S SIGNATURE: _____

FINDINGS OF FACT

WHEREAS, ROBERT & MONIKA RIVERS, MONTGOMERY, MN, (APPLICANT/OWNER): has applied for a Conditional Use Permit to allow grading, excavating and filling of 2 cubic yards of material in the bluff for the construction of a stairway in a Recreational Residential “RR” District on a Recreational Development “RD” lake, Greenleaf Lake. Property is located at Lot 3, Block 4, Greenleaf Lake Estates, Section 20, Montgomery Township.

WHEREAS, the Le Sueur County Planning and Zoning Commission held on public hearing on **August 13, 2015**, 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.**

WHEREAS, On August 25, 2015, at their regularly scheduled meeting, the Le Sueur County Board of Commissioners APPROVED/DENIED the Conditional Use Permit application as requested by Robert & Monica Rivers.

NOW, THEREFORE, IT IS HEREBY RESOLVED, the following Findings of Fact were adopted at the August 25, 2015 Le Sueur County Board meeting in order to protect the public health, safety and general welfare of the citizens of Le Sueur County.

- 1. With the imposition of the appropriate condition as stated, 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. With the imposition of the appropriate condition as stated, 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. With the imposition of the appropriate condition as stated, adequate utilities, access roads, drainage and other facilities have been or are being provided.**
- 4. With the imposition of the appropriate condition as stated, 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.

BE IT FURTHER RESOLVED, by the Le Sueur County Board of Commissioners that based on the above Findings of Fact, a Conditional Use Permit to allow grading, excavating and filling of 2 cubic yards of material in the bluff for the construction of a stairway in a Recreational Residential “RR” District on a Recreational Development “RD” lake, Greenleaf Lake. Property is located at Lot 3, Block 4, Greenleaf Lake Estates, Section 20, Montgomery Township is **APPROVED/DENIED**.

ATTEST:

Lance Wetzel, Chairman, Le Sueur County Board of Commissioners.

Darrell Pettis, Le Sueur County Administrator

DATE: _____

FINDINGS OF FACT

WHEREAS, TIM & ANN WALSH, CLIVE IA, (APPLICANT/OWNER): has applied for a Conditional Use Permit to allow grading, excavating and filling of approximately 6 cubic yards of material outside the shore impact zone, 69 cubic yards within the shore impact zone for a project total of 75 cubic yards and for the construction of 2 retaining walls in a Recreational Residential “RR” District, on a Recreational Development Lake, Lake Frances. Property is located at Lot 11, Warner’s Subdivision, Section 33, Elysian Township.

WHEREAS, the Le Sueur County Planning and Zoning Commission held on public hearing on August 13, 2015, 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 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.**

WHEREAS, On August 25, 2015, at their regularly scheduled meeting, the Le Sueur County Board of Commissioners **APPROVED/DENIED** the Conditional Use Permit application as requested by the Tim and Ann Walsh.

NOW, THEREFORE, IT IS HEREBY RESOLVED, the following Findings of Fact were adopted at the August 25, 2015, Le Sueur County Board meeting in order to protect the public health, safety and general welfare of the citizens of Le Sueur County.

- 1. With the imposition of appropriate conditions as stated, 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. With the imposition of appropriate conditions as stated, 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. With the imposition of appropriate conditions as stated, adequate utilities, access roads, drainage and other facilities have been or are being provided.**
- 4. With the imposition of appropriate conditions as stated, 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.**

BE IT FURTHER RESOLVED, by the Le Sueur County Board of Commissioners that based on the above Findings of Fact, a Conditional Use Permit to allow grading, excavating and filling of approximately 6 cubic yards of material outside the shore impact zone, 69 cubic yards within the shore impact zone for a project total of 75 cubic yards and for the construction of 2 retaining walls in a Recreational Residential “RR” District, on a Recreational Development Lake, Lake Frances. Property is located at Lot 11, Warner’s Subdivision, Section 33, Elysian Township, is **APPROVED/DENIED**.

ATTEST:

Lance Wetzel, Chairman, Le Sueur County Board of Commissioners.

Darrell Pettis, Le Sueur County Administrator

DATE: _____

FINDINGS OF FACT

WHEREAS, CHRIS BIEHN, MANKATO, MN, (APPLICANT\OWNER): has applied for an After-The-Fact Conditional Use Permit to allow grading, excavating and filling of 114 cubic yards of material within the bluff, bluff impact zone and the construction of a retaining wall outside the shore impact zone in a Recreational Residential “RR” District on a Recreational Development “RD” lake, Lake Jefferson. Property is located in Government Lot 7, Section 4, Washington Township.

WHEREAS, the Le Sueur County Planning and Zoning Commission held on public hearing on **August 13, 2015**, 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 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.**

WHEREAS, On August 25, 2015, 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 the Chris Biehn.

NOW, THEREFORE, IT IS HEREBY RESOLVED, the following Findings of Fact were adopted at the August 25, 2015, Le Sueur County Board meeting in order to protect the public health, safety and general welfare of the citizens of Le Sueur County.

- 1. With the imposition of appropriate conditions as stated, 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. With the imposition of appropriate conditions as stated, 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. With the imposition of appropriate conditions as stated, adequate utilities, access roads, drainage and other facilities have been or are being provided.**
- 4. With the imposition of appropriate conditions as stated, 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.**

BE IT FURTHER RESOLVED, by the Le Sueur County Board of Commissioners that based on the above Findings of Fact for the After-The-Fact Conditional Use Permit to allow grading, excavating and filling of 114 cubic yards of material within the bluff, bluff impact zone and the construction of a retaining wall outside the shore

impact zone in a Recreational Residential “RR” District on a Recreational Development “RD” lake, Lake Jefferson. Property is located in Government Lot 7, Section 4, Washington Township, is APPROVED/DENIED.

ATTEST:

Lance Wetzel, Chairman, Le Sueur County Board of Commissioners.

Darrell Pettis, Le Sueur County Administrator

DATE: _____

LE SUEUR COUNTY PLANNING AND ZONING COMMISSION
88 SOUTH PARK AVE.
LE CENTER, MINNESOTA 56057
August 13, 2015

MEMBERS PRESENT: Don Reak, Jeanne Doheny, Don Rynda, Shirley Katzenmeyer, Steve Olson, Al Gehrke, Betty Bruzek, Pam Tietz

MEMBERS ABSENT: Chuck Retka, Doug Krenik

OTHERS PRESENT: Kathy Brockway, see list

The meeting was called to order at 7:00 PM by Chairperson, Jeanne Doheny.

ITEM #1: ROBERT & MONIKA RIVERS, MONTGOMERY, MN, (APPLICANT/OWNER): Request that the County grant a Conditional Use Permit to allow grading, excavating and filling of 2 cubic yards of material in the bluff for the construction of a stairway in a Recreational Residential "RR" District on a Recreational Development "RD" lake, Greenleaf Lake. Property is located at Lot 3, Block 4, Greenleaf Lake Estates, Section 20, Montgomery Township.

Kathy Brockway presented power point presentation. Tim Poncin, representing the applicant was present for application.

TOWNSHIP: Notified through the application process, no comments DNR: none
LETTERS: Le Sueur County Environmental Services Resource Specialist, see file

PUBLIC COMMENT: none

Discussion was held regarding: no impact to the bluff, minimal soil removal, 16 diamond piers installed with a jackhammer approximately 62" into the soil, no heavy machinery used, prefabricated piers, no tree removal, brush will be cleared out, existing pathway.

Findings by majority roll call vote:

- a. *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. Agreed*
- b. *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. Agreed*
- c. *Adequate utilities, access roads, drainage and other facilities are being provided. Agreed*
- d. *Adequate measures 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. Agreed*

Motion was made by Don Reak to approve the application with the following condition per the Environmental Services Resource Specialist recommendation that all exposed soils be stabilized Immediately once the work is completed. Seconded by Shirley Katzenmeyer. Motion approved. Motion carried.

ITEM #2: TIM & ANN WALSH, CLIVE IA, (APPLICANT/OWNER): Request that the County grant a Conditional Use Permit to allow grading, excavating and filling of approximately 6 cubic yards of material outside the shore impact zone, 69 cubic yards within the shore impact zone for a project total of 75 cubic yards and for the construction of 2 retaining walls in a Recreational Residential "RR" District, on a Recreational Development Lake, Lake Frances. Property is located at Lot 11, Warner's Subdivision, Section 33, Elysian Township.

Kathy Brockway presented power point presentation. Cory Atherton, contractor for the applicant was present for application.

TOWNSHIP: notified through the application process, no comments DNR: no comments LETTERS: Le Sueur County Environmental Resource Specialist, see file

PUBLIC COMMENT: none

Discussion was held regarding: some removal of impervious pavers and replace with pervious pavers, due to heavy rains last summer in the area, blocked culvert, drainage to the area came across their property and destroyed the patio/retaining walls, drainage issue has been resolved, erosion control methods in place, landscaping fabric, reducing the size of the patio, variances approved in May of 2015 to exceed 25% impervious surface, timeframe to complete project, about a week to week an ahalf.

Findings by majority roll call vote

- a. *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. Agreed.*
- b. *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. Agreed.*
- c. *Adequate utilities, access roads, drainage and other facilities are being provided. Agreed.*
- d. *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. Agreed.*

Motion was made by Steve Olson to approve the application with the following conditions: 1) Use landscaping fabric in order to prevent future erosion. 2) Areas on the plan that are designated as vegetation buffers shall be planted with native plants. Seconded by Al Gehrke. Motion approved. Motion carried.

ITEM #3: CHRIS BIEHN, MANKATO, MN, (APPLICANT/OWNER): Requests that the County grant an After-The-Fact Conditional Use Permit to allow grading, excavating and filling of 114 cubic yards of material within the bluff, bluff impact zone and the construction of a retaining wall outside the shore impact zone in a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Jefferson. Property is located in Government Lot 7, Section 4, Washington Township.

Kathy Brockway presented power point presentation. Chris Biehn was present for application. Rory Jensen, Surveyor.

TOWNSHIP: notified through the application process, no comments. DNR: no comments
LETTERS: Le Sueur County Environmental Resource Specialist, see file

PUBLIC COMMENT: none

Discussion was held regarding: explained the reasoning behind the after the fact permit, renter asked to do some landscaping around his camper in order to correct an erosion problem behind his camper, the landowner did not realize the magnitude of the project until the project was complete, as the landowner does not live in the County, he is currently building a new home across from this property, history of parcel, Mr. Biehn inherited the property some 19 years ago, the gravel pad existed prior to owning the property, does not want to eliminate the existing pad as he wants to continue using it for his family access, the former leasee is a contractor and should of known better, but it is the landowners responsibility to know what is happening on their property, it is now on the lease that no building, material movement etc is allowed without the owners knowledge of the project, discussion on type of rock used, plantings of hostas, day lilies, installation of rain garden, sandy beach.

Findings by majority roll call vote:

- a. *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. Agreed.

- b. 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. Agreed.*
- c. Adequate utilities, access roads, drainage and other facilities have been provided. Agreed.*
- d. Adequate measures have been 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. Agreed.*

Motion was made by Don Reak to approve the application with the following conditions. 1) Reduce the existing pad to 24 wide and the length no more than 2 car lengths to be utilized as an access to the site only, (Surveyor to provide the additional material movement amount prior to the County Board meeting on August 25), 2) The area shall be planted with native grasses in order to stabilize the soils. Seconded by Betty Bruzek. Motion approved. Motion carried.

Election of Officers:

Motion was made by Don Reak to re-elect the current officers if they are willing to accept the positions. Seconded by Al Gehrke. All accepted. Motion approved. Motion carried.

Motion was made by Don Reak to approve the minutes from the July 7, 2015 meeting. Seconded by Don Rynda. Motion approved. Motion carried.

Motion was made by Al Gehrke to approve the minutes from the July 9, 2015 meeting by Seconded by Steve Olson. Motion approved. Motion carried.

Motion to adjourn meeting by Pam Tietz. Seconded by Don Rynda. Motion approved. Motion carried.

Meeting Adjourned.

Respectfully submitted,

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