



Cass County  
Planning Commission/Board of Adjustment

July 25, 2016

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting July 25, 2016 in the meeting room of the Cass County Land Department in Backus. The field inspection for the meeting was conducted July 5 and July 6, 2016, with PC members Fitch, Kostial, LaPorte, Froehlig, Moore, Pehling and Sundberg along with ESD staff Berg, and Fairbanks in attendance.

Sundberg called the meeting to order at 9:34 a.m.

Members present: Fitch, Froehlig, Kostial, LaPorte, Moore, Pehling and Sundberg.

Staff Present: Berg, Fairbanks and Ringle.

Citizens Present: Baird Alwin, Dawn Bennett, John Bennett, Rita Berry, Steve Berry, Phyllis Blonigen, Verdi Blonigen, Stephen Carr, Terry Freeman, Tamara Day, Steve Ebert, Thomas Glodek, George Graseth, Sandra Graseth, Alex Gray, Darrin Hoverson, Nancy Jacobson, Connie Kaylor, Steve Kaylor, Dennis King, Mike McLaury, Tom Menth, Kory Nelson, Alex Novak, Jeff Peterson, Douglas Pietsch, Karla Pietsch, Jeanne Pingel, Tom Pingel, Amy Reher, Alex Rogen, Helen Sautbine, Bob Stein, Lori Stein, David Ulring, Frederick Zieffler and Margaret Zieffler.

MS/P Kostial/Pehling to approve the minutes of the 05/9/16 PC/BOA meeting as presented.

Variance

Alwin, Baird, Sylvan Township on property described as Lot 56, "Carlyons Sylvan Park", Section 1-133-30, PID #41-456-0540 located at 2228 Weendego Trail SW. An application submitted to construct a 40 feet x 72 feet accessory structure containing storage and shop which will be located 10 feet from the top of a bluff. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1126.1 B. which requires structures to be located 30 feet from the top or toe of a bluff. The property contains 4.62 acres within the shoreland area,  $\frac{1}{4}$  mile, of St Mary's Lake (NE).

PC members were at the site 07/06/16. 35 notices of the application were mailed with two responses including that of Sylvan Township recommending approval and two responses objecting to approval received. The application was reviewed and discussed with Mr. Alwin.

MS/P Kostial/Froehlig to approve the application submitted to construct a 40 feet x 72 feet structure 10 feet from the top of a bluff upon review of the criteria contained in Sections 800 and 1126.1 B. of the Land Use Ordinance along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. The property was platted in 1923 prior to the adoption of bluff and buildable area standards and contains 4.62 acres.
2. A contour map of the area reveals extreme elevation variation across the entire plat.
3. The Lot 56 is non-riparian and the proposed site is well screen from neighboring property and roadways.
4. The topography of the plat represents practical difficulty for structure location at least 30 feet from the top of a bluff.
5. There is nothing to indicate that the proposed structure location or size will alter, disturb or negatively impact existing land use or neighboring property which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.
6. There is nothing to indicate that the application is solely financially based.
7. The application, if approved, will not allow a use that is prohibited in the zoning district in which the subject property is located.
8. The application, if approved and assuming compliance with applicable run-off related conditions will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.
9. The application, if approved, will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
10. The proposed location of the structure appears to be the most reasonable and environmentally sensitive for the entire parcel.
11. The distance from St. Mary's Lake, topographical slope away from the lake, existing vegetation, sandy soils and structure run-off control measures will prohibit all run-off from the parcel.
12. The proposed structure will not be visible from St. Mary's Lake and neighboring properties save for leaf off periods.

**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 location and size of the structure shall not vary from that submitted 06/20/16 unless approved by ESD or if necessary the Planning Commission.
2. The applicant shall comply with the recommendation of the 06/23/16 Shoreline Rapid Assessment Model.
3. ESD must determine and if required, the applicant shall install approved construction erosion control.
4. No run-off to adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
5. Any material resulting from construction not reused or recycled must be disposed of in a permitted facility.
6. Applicant shall consent to inspection of the property by ESD to verify compliance with conditions.
7. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 07/25/18.

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.

Bakke, Edward & Virginia, Boy Lake Township on property described as Part of N 30 Feet of Lot 5 & Part of Lots 6 & 7, "Auditors Plat Number 10", Section 30-142-28, PID #07-427-0060 located at 7961 Partridge Point Drive NW. An application submitted to construct a 15 feet x 34 feet accessory/garage structure which will be 8 feet from the closest property boundary line. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1126.1 B. which requires structures to be located 10 feet from a property boundary line. The property contains .65 acre riparian to Leech Lake (GD).

PC members were at the site 07/05/16. 18 notices of the application were mailed with no response received.

MS/P LaPorte/Froehlig to approve the application to locate a 15 feet x 34 feet accessory structure/garage 8 feet from the closest property boundary line upon review of the criteria contained in Sections 800 and 1126.1 B. of the Land Use Ordinance along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

## Findings:

1. The property was platted in 1948.
2. It appears that the original residential structure and the neighboring Quonset structure were located prior to the adoption of the current standards.
3. The location of the SSTS, the structure and the well limits placement options for the proposed accessory structure which would result in an insignificant (two feet on one end) from the required boundary lot line separation.
4. The location of the proposed accessory structure/garage complies with lake setback.
5. There is nothing to indicate that the proposed location and size of the proposed accessory structure/garage will alter, disturb or negatively impact existing land use or neighboring property which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.
6. There is nothing to indicate that the application is solely financially based.
7. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
8. Approval assuming compliance with applicable run-off related conditions will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.
9. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.

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 location, configuration and dimensions of the accessory structure/garage shall not vary from that submitted 05/31/16 unless approved by ESD or if necessary the Planning Commission.
2. ESD must determine and if required, the applicant shall install approved construction erosion control.
3. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.

4. Any material resulting from construction not reused or recycled must be disposed of in a permitted facility.
5. Applicant shall consent to inspection of the property by ESD to verify compliance with conditions.
6. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 07/11/18.

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.

Bennett, John, Birch Lake Township on property described as Part of Govt Lot 7, Section 29-140-30, PID #05-029-3102 located at 2931 43<sup>rd</sup> Avenue NW. An application submitted to expand the non-conforming residence with a 24 feet x 24 feet addition to be located 63 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1115.3 which establishes the non-conforming criteria and Section 1126.1 A. which requires structures to be located 150 feet from a lake classified Natural Environmental (NE). The property contains 1.22 acres riparian to Poquet Lake (NE).

PC members were at the site 07/05/16. 14 notices of the application were mailed with no response received. The application was reviewed with Mr. Bennett.

MS/P Moore/Kostial to approve the application to expand the existing non-conforming residence with a 24 feet x 24 addition 63 feet from Poquet Lake upon review of the criteria contained in Sections 800, 1115.3 and 1126.1 A. of the Land Use Ordinance along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. The property which contains 1.22 acres was platted in 1967 prior to the adoption of lot and setback standards.
2. The proposed expansion will be non-lakeside and will have a greater lake setback than the existing setback of the structure.
3. There is nothing in the permit archive to indicate the time of original construction.
4. The location of the residence represents practical difficulty for residence expansion and there is nothing to indicate that the residence expansion location and size will alter, disturb or negatively impact existing land use or neighboring property which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and

communication between county, local governments and the citizens in land use planning, and 4.)  
Protect the County's natural resources from degradation.

5. There is nothing to indicate that the application is solely financially based.

6. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.

7. Approval, assuming compliance with applicable run-off related conditions, will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.

8. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.

**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 location and size of the residence expansion shall not vary from that submitted 06/16/16 unless approved by ESD or if necessary the Planning Commission.

2. The applicant shall comply with the recommendation of a Shoreline Rapid Assessment Model determination to be conducted prior to the commencement of construction.

3. ESD must determine and if required, the applicant shall install approved construction erosion control.

4. No run-off to adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.

5. Any material resulting from construction not reused or recycled must be disposed of in a permitted facility.

6. Applicant shall consent to inspection of the property by ESD to verify compliance with conditions.

7. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 07/11/18.

**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.**

Blonigen, Verdi, Birch Lake Township on property described as Part of Govt Lots 2 & 3, Section 28-140-30, PID #05-028-2406 located at 3016 Grosbeak Trail NW. An application submitted to expand a non-conforming residence with a 14 feet x 26 feet two story addition to be located

61 feet from the lake and to construct a detached 32 feet x 36 feet accessory structure/garage to be located 46 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1115.3 which establishes the non-conforming criteria and Section 1126.1 A. which requires structures to be located 75 feet from a lake classified General Development (GD). The property contains .55 acre riparian to Pleasant Lake (GD).

PC members were at the site 06/05/16. 29 notices of the application were mailed. 7 responses including 6 opposing approval and one favoring approval of the application were received. The application was reviewed with Mr. Blonigen.

MS/P Kostial/LaPorte to table consideration of the application until the 09/14/16 meeting in order for Mr. Blonigen to consider possible expansion, construction and location options for his property.

Ebert, Steven & Consuelo, Birch Lake Township on property described as Part of Govt Lot 4, Section 34-140-30, PID #05-034-3312 located at 3554 Junco Lane NW. An application submitted "after the fact" to be allowed to retain a patio and outdoor grill structure constructed sans permit. The applicable portions of the Land Use Ordinance include Section 501 which requires a permit for the placement of structures and vegetative shoreline alteration, Section 800 which establishes variance criteria, Section 1126.7 B. which establishes patio criteria and Section 1128 which establishes shoreline alteration criteria. The property contains .74 acre riparian to Pleasant Lake (GD).

PC members were at the site 07/06/16. 22 notices of the application were mailed with 2 responses received both objecting to approval of the application. The application was reviewed with Mr. Ebert.

MS/P Kostial/LaPorte to approve the application "after the fact" to be allowed to retain the existing patio/grill structure at existing location upon review of the criteria contained in Sections 800 and 1126.1 A. of the Land Use Ordinance along with M.S. 394.27, Subdivision 7 and the finding of the "Statsvold Decision" with the following findings and conditions:

Findings:

1. The lake setback of the residence, 50 feet, was approved by VP05-140-30-4 which was a reduction of the existing lake setback encroachment of the structure that was removed.
2. The wetland located on the property is isolated from the lake and not designated as public waters to which there is no structure setback.
3. The fireplace/grill structure was not included or discussed during the evaluation of VP05-140-30-4.
4. The applicant has failed to comply with condition #4 of VP05-140-30-1, "The existing vegetative shoreline buffer must be maintained".

5. There is no information or evidence to indicate that the fireplace/grill has altered or disturbed or neighboring property or land use and does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
6. There is nothing to indicate that the application is solely financially based.

"Statsvold" - After the Fact Factors:

1. There is nothing to indicate or anyway to determine that the applicant did not act in good faith when the construction of the fireplace/grill took place.
2. There is nothing to indicate or anyway to determine if the applicant inquired as to land use permit and placement requirements for the construction of the fireplace/grill.
3. A casual observer would conclude that the construction the fireplace/grill required substantial investment.
4. Construction of the fireplace/grill is completed.
5. There are similar fireplace/grill structures along Pleasant Lake and throughout the county.
6. The degree of impact of the fireplace/grill to the area and the land use system is not significant and the County's benefits by obtaining a variance to the shoreland standards are not outweighed by the applicant's burden if the applicant were required to comply with the ordinance and in light of all factors, the interest of justice is served by granting the ATF variance.

NOTICE TO APPLICANT: If the following conditions are included no permit to implement shall be issued until:

1. ESD required and approved erosion control is installed.
2. If shoreline vegetative enhancement, restoration or no mow is required by ESD or the Planning Commission, a written plan for suitable vegetation shall be 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 per square foot of the buffer area for no-mow or \$3 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 applicant shall provide in conjunction with ESD staff a plan and schedule to restore a shoreline vegetative buffer for the entire width of the lot.
2. The applicant shall submit final assurance to the County in the amount of a \$5,000 Letter of Credit which shall be reduced incrementally as determined and approved by ESD.
3. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed to natural water retention features located upon the property or other structures such as rain gardens.
4. Applicant shall consent to inspection of the property by ESD to verify compliance with conditions.

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.

Glodek, Thomas, Thunder Lake Township on property described as Part of Govt Lots 3 & 4, Section 27-140-26, PID #42-027-2006 located at 6107 N Bass Lake Drive NE. An application submitted to construct a 3 feet x 3 feet accessory structure addition to be located 65 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1126.1 A. which requires structures to be setback 100 feet from a lake classified Recreational Development (RD). The property contains 3.51 acres riparian to Bass Lake (RD).

PC members were at the site 07/06/16. 30 notices of the application were mailed with no response received. The application was reviewed with Mr. Glodek.

MS/P Kostial/Fitch to approve the application as submitted to construct an accessory structure addition located at PID #42-027-2006 upon review of the criteria contained in Sections 705 and 1126.1 A. of the Land Use Ordinance along with M.S. 394.301 with the following findings and conditions:

Findings:

1. The property contains 3.51 acres and became a lot of record in 2004.
2. It appears that the structure which is included in the application is an existing non-conforming structure which therefore could be replaced at current lake setback, footprint and volume.
3. The proposed expansion seems necessary to protect a wellhead to which such a structure, "doghouse" is allowed and as the applicant has represented, was formerly enclosed.
4. The location of the structure represents practical difficulty for expansion and there is nothing to indicate that the expansion location and insignificant size will alter, disturb or negatively impact existing land use or neighboring property which therefore does not contradict

the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.

5. There is nothing to indicate that the application is solely financially based.

6. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.

7. Approval, assuming compliance with applicable run-off related conditions, will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.

8. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.

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 location and size of the expansion shall not vary from that submitted 06/22/16 unless approved by ESD or if necessary the Planning Commission.

2. The applicant shall comply with the recommendations of the 06/23/16 Shoreline Rapid Assessment Model and ESD staff.

3. The applicant shall submit final assurance to the County in a Letter of Credit in an amount as determined by ESD which shall be reduced incrementally as determined and approved by ESD.

4. ESD must determine and if required, the applicant shall install approved construction erosion control.

5. No run-off to adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.

6. Any material resulting from construction not reused or recycled must be disposed of in a permitted facility.

7. Applicant shall consent to inspection of the property by ESD to verify compliance with conditions.

8. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 07/11/18.

9. The applicant shall abide with all applicable Minnesota Well Code requirements.

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.

Granseth, George & Sandra, Crooked Lake Township on property described as Lot 17, "Sabins Eastburn", Section 9-139-30, PID #12-401-0170 located at 1731 Eastburn Road NE. An application submitted to construct a roof over an existing lakeside entrance located less than 75 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1126.1 A. which requires structures to be setback 75 feet from a lake classified General Development (GD). The property contains .72 acre riparian to Lake Washburn (GD).

The PC was at the site 07/06/16. 34 notices of the application were mailed with 2 responses favoring approval and 3 responses objecting to approval received. The application was reviewed with George and Sandra Granseth.

MS/P Froehlig/Fitch to approve the application as submitted for PID #12-401-0170 to construct a 7 feet x 8 feet roof over the existing lakeside stoop located 62 feet from the lake upon review of the criteria contained in Sections 800 and 1126.1 A. of the Land Use Ordinance along with M.S. 394.301 with the following findings and conditions:

Findings:

1. The property was platted in 1957 prior to the adoption of land use regulation within the shoreland area.
2. There is no record in the permit archive as to original construction and is an existing non-conforming structure which therefore could be replaced at current lake setback, footprint and volume.
3. The proposed expansion seems necessary to offer protection in utilizing the lakeside entrance to the residence.
4. Construction of the proposed roof will not result in any additional impervious lakeside surface insomuch as it will cover an existing cobblestone patio.
5. The location of the residence represents practical difficulty for requested expansion and there is nothing to indicate that the expansion location and size will alter, disturb or negatively impact existing land use or neighboring property which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.
6. There is nothing to indicate that the application is solely financially based.

7. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
8. Approval, assuming compliance with applicable run-off related conditions, will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.
9. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.

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 location and size of the expansion shall not vary from that submitted 06/20/16 unless approved by ESD or if necessary the Planning Commission.
2. The applicant shall comply with the recommendations of the 06/20/16 Shoreline Rapid Assessment Model and ESD staff.
3. The applicant shall submit financial assurance to the County in the form of a Letter of Credit in an amount as determined by ESD which shall be reduced incrementally as determined and approved by ESD.
4. ESD must determine and if required, the applicant shall install approved construction erosion control.
5. No run-off to adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
6. Any material resulting from construction not reused or recycled must be disposed of in a permitted facility.
7. Applicant shall consent to inspection of the property by ESD to verify compliance with conditions.
8. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 07/11/18.

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.

McLaury, Mike, Ottertail Peninsula Township on property described as Lot 12, Block 1, "Sucker Bay Shores", Section 35-144-30, PID #28-547-0160 located at 12378 Deer Hunter Trail NW. An application submitted to expand a non-conforming residence with a 6 feet x 33 feet deck to

be located 40 feet from the lake and an 8 feet from the closest property boundary and to construct a 24 feet x 15 feet screen porch/12 feet x 15 feet deck combination to be located 40 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1126.1 A. & B. which requires structures to be setback 75 feet from a lake classified General Development (GD) and setback 10 feet from a property boundary line. The property contains .38 acre riparian to Leech Lake (GD).

21 notices of the application were mailed with no response received. The application was reviewed with Mr. McLaury.

MS/P LaPorte/Fitch to approve the application as submitted for a deck and screen porch for the residence located at PID #28-547-0160 upon review of the criteria contained in Sections 800 and 1126.1A of the Land Use Ordinance along with M.S. 394.301 with the following findings and conditions:

Findings:

1. The property which contains .38 acre was platted in 1988 from former DNR lease lots.
2. There is no record in the permit archive as to the original construction although it is obvious that it predates the adoption of land use regulation which therefore could be replaced at current lake setback, footprint and volume.
3. Expansion of the structure at current setback was approved by ZP01-144-30-5.
4. Section 1127.6 B., the 15% rule, would allow for an 8 feet wide deck.
5. The location of the structure represents practical difficulty for expansion and there is nothing to indicate that the expansion configuration, location and size will alter, disturb or negatively impact existing land use or neighboring property which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.
6. There is nothing to indicate that the application is solely financially based.
7. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
8. Approval, assuming compliance with applicable run-off related conditions, will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.
9. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
10. Existing and proposed construction are setback substantially from open water.

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 location and size of the expansion shall not vary from that submitted 06/13/16 unless approved by ESD or if necessary the Planning Commission.
2. The applicant shall maintain the existing amount and configuration of shoreline vegetation except as allowed by a Shoreline Alteration Permit.
3. ESD must determine the need for, and if required the applicant shall install approved construction erosion control measures.
4. No run-off to adjoining properties or the lake is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
5. Any material resulting from construction not reused or recycled must be disposed of in a permitted facility.
6. Applicant shall consent to inspection of the property by ESD to verify compliance with conditions.
7. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 07/11/18.

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.

Menth, Thomas, Unorganized on property described as Mississippi River Group, USFS, Lot 7, Section 2-145-29, PID #74-845-0070 located at 784 Trappers Drive NW. An application submitted to expand a non-conforming residence with a 10 feet x 13 feet addition and to construct 16 feet x 24 feet detached accessory structure both located 100 feet from the water. The residence is non-conforming because it is less than 200 feet from the water. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1115.3 which establishes non-conforming structure expansion criteria. In addition the parcel is subject to the jurisdiction of the Mississippi Headwaters Board (MHB) to which their mapping classifies the parcel as riparian to the Mississippi River. Section F. 1 of the MHB Management Plan requires structures to be located 200 feet from a river segment classified as Wild (W). The property contains .7 acre riparian to the Mississippi River (W).

10 notices of the application were mailed with no response received. The application was reviewed and discussed with Mr. Menth.

MS/P Fitch/Pehling to approve the application for the residence expansion and detached accessory structure/garage to be located at PID #74-845-0070 upon review of the criteria contained in Sections 705 and 1115.3 the Land Use Ordinance along with Section F. 1 of the MHB Headwaters Management Plan and M.S. 394.301 with the following findings and conditions:

Findings:

1. The property which contains .7 acre is a USFS lease lot.
2. There is no record in the permit archive as to the original construction although it is generally recognized that the construction of the residence occurred in 1950's at 100 feet.
3. The Mississippi Headwaters Board which was formed in 1980 has designated the portion of the river where this property is located as Wild (W) which requires a setback from the river of 200 feet.
4. The proposed residence expansion and detached accessory structure/garage will be no closer to the river than current setback.
5. The location of the structure represents practical difficulty for expansion and there is nothing to indicate that the expansion and detached accessory structure/garage configuration, size or location will alter, disturb or negatively impact existing land use or neighboring property which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.
6. There is nothing to indicate that the application is solely financially based.
7. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
8. Approval, assuming compliance with applicable run-off related conditions, will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.
9. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.

**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 location and size of the expansion and detached accessory structure/garage shall not vary from that submitted 06/06/16 unless approved by ESD or if necessary the Planning Commission.
2. The applicant shall comply with the recommendations of the 06/22/16 Shoreline Rapid Assessment Model and ESD staff.
3. The applicant shall submit final assurance to the County in a Letter of Credit in an amount as determined by ESD which shall be reduced incrementally as determined and approved by ESD.
4. ESD must determine and if required, the applicant shall install approved construction erosion control.
5. No run-off to adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
6. Any material resulting from construction not reused or recycled must be disposed of in a permitted facility.
7. Applicant shall consent to inspection of the property by ESD to verify compliance with conditions.
8. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 07/11/18.

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.

Pietsch, Douglas & Karla, Birch Lake Township on property described as Lot 6, Block 1, "Mascot North Shore", Section 1-140-30, PID #05-337-0125 located at 4463 Bluebird Trail NW. An application submitted to construct an 18 feet x 20 feet detached screened structure to be located 80 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1126.1 A. which requires structures to be setback 100 feet from a lake classified Recreational Development (RD). The property contains 1.6 acres riparian to Webb Lake (RD).

16 notices of the application were mailed with one response supporting the application and one response objecting to approval of the application was received. In addition, one person in attendance rose in opposition to the application. The application was reviewed and discussed with Douglas and Karla Pietsch.

MS/P Moore/Fitch to deny the application for the accessory/screen structure proposed for PID #05-337-0125 upon review of the criteria contained in Sections 800 and 1126.1 A. of the Land Use Ordinance along with M.S. 394.301 with the following findings and conditions:



## Findings:

1. The application does not demonstrate "practical difficulty" as established in MS 394.27, "the plight of the landowner is due to circumstances unique to the property not created by landowner".
2. There is area beyond the driveway that could be utilized for placement of the proposed structure.
3. There are instances whereby the physical/topographical limitations of property, including OHWL, cannot be reasonably manipulated to accommodate development desires.
4. The property can be developed in a manner that recognizes and incorporates the physical/topographical characteristics.
5. The application is not compatible with Section 801.2 E. of the Land Use Ordinance which establishes that a variance cannot be granted that will; "Be inconsistent with the preservation of natural land forms, vegetation or wetlands of Cass County".

Verly, John, Kego Township on property described as Part of Lot 1, "Sparkling Waters", Section 23-141-28, PID #19-421-0011 located at 1691 Sparkling Waters Lane NE. An application submitted to construct a 20 feet x 24 feet accessory structure/garage to be located 37 feet, at the closest point, from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1126.1 A. which requires structures to be setback 75 feet from a lake classified General Development (GD). The property contains 1.23 acres riparian to Long Lake (GD).

MS/P Fitch/LaPorte to table consideration of the application until the 08/08/16 meeting in order for Mr. Verly to consider alternative placement locations for the accessory structure/garage on PID #19-421-0011.

## Conditional Use Permit

Leech Lake Development, Leech Lake Township on property described as Part of E $\frac{1}{2}$  of SE, Section 29-143-31, PID #20-029-0004, Parts of NE SE SE NE, Section 29-143-31, PID #20-029-0005 & Part of E $\frac{1}{2}$  SE, Section 29-143-31, PID #20-029-0009. An application submitted to reclassify the combined parcels from Shoreland Residential (SR) to Water Oriented Commercial (WOC) which requires approval by a Conditional Use Permit (CUP). The applicable sections of the Land Use Ordinance include Section 705 which establishes CUP standards, Section 903 and 1000 which establish land use districts standards. The combined parcels contain 20.96 acres (SR).

PC members were at the site of the application 07/05/16. 91 notices of the application were mailed. Six written responses all objecting to approval of the application were received. In addition several persons in attendance rose to express their objections to approval. The application was reviewed and discussed with Leech Lake Development representative Amy Reher.

MS/P Moore/Froehlig to approve the application to reclassify the combined parcels included in the application from Shoreland Residential (SR) to Water Oriented Commercial (WOC) upon review of the criteria contained in Sections 705, 903 and 1110 of the Land Use Ordinance along with M.S. 394.301 with the following findings and condition:

Findings:

1. Section 903.9 describes Water Oriented Commercial (WOC); "The purpose of this district is to accommodate uses in the shoreland zone where access to and use of a surface water feature is an integral part of the business. Marinas, resorts and restaurants with transient docking are examples of such use".
2. The property is riparian to Leech Lake.
3. The property is adjacent to an existing recreation/commercial use golf course.
4. There is nothing to indicate that the golf course and adjacent fairway residential development has had a detrimental impact to neighboring property which therefore does not necessarily contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or contradict the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.
5. Any development subsequent to reclassification shall require a CUP application along with public notice and public hearing in order to evaluate:
  - a. Compliance with applicable density standards.
  - b. In conjunction with DNR, access to Leech Lake.
  - c. Potential impact to the demand for governmental services.
  - d. The use of existing roadways or new roadways that will be utilized.
  - e. Waste water treatment.
  - f. If wetland or critical habitat could be affected.
  - g. If scenic or historic features could be affected.
  - h. If proposed development could be an unusual threat to public health, safety and welfare.

Conditions:

1. The reclassification shall apply to the acreage and boundary as submitted and recorded.
2. No development shall proceed without preliminary consultation with ESD.
3. No development shall proceed without applicable process, review and permits as shall be required by ESD, DNR, COE and the LLB.

Nelson, Kory, Shingobee Township on property described as Part of SE NW, Section 28-142-31, PID #38-128-2405 & Part of SE NW, Section 28-142-31, PID #38-128-2409. An application submitted to establish a seasonal Recreation Vehicle (RV) facility proposed to be developed in

two phases to a maximum of 45 RV sites containing at least 500 square feet. An RV facility requires approval by a Conditional Use Permit (CUP). The applicable sections of the Land Use Ordinance include Section 705 which establishes CUP standards and Section 1118 which contains the recreational vehicle facility standards. The combined parcels contain 7.6 acres (RR-2.5).

PC members were at the site of the application 07/05/16. 61 notices of the application were mailed. Six written responses, two favoring approval of the application and four objecting to approval of the application were received. In addition several persons in attendance rose to express their objections to approval. The application was reviewed and discussed with Mr. Nelson and Mr. Freeman.

MS/P Pehling/LaPorte to approve the application as submitted to establish and operate a Recreation Vehicle (RV) facility at PID #38-128-2409 upon review of the criteria contained in Sections 705 and 1118 of the Land Use Ordinance along with M.S. 394.301 with the following findings and condition:

Findings:

1. The proposed RV park clientele will be seasonal and typically will consist of seniors and families with children which will not impact local public facilities such as schools.
2. Presuming the existing tree buffer is maintained along the boundaries of the property, there is nothing to indicate that the proposed use will have detrimental visual or other impact to neighboring residential property located to the south and north of the proposed land use activity which therefore does not necessarily contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or contradict the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.
3. The surrounding area consists of a rural suburban type development along with located along County #12 and based upon the amount of vegetative buffer and the location of the RV sites, there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed location of the proposed RV Park.
4. The proposed development of the RV Park will not change the current utilization of existing public roadways and will not require expansion or reconfiguration therefore additional public infrastructure will not be required.
5. No wetland or critical habitat will be disturbed by the proposed RV Park.
6. No scenic or historic features will be affected by the proposed RV Park.
7. Based upon the anticipated RV park clientele, rules of occupancy and "state of the art" waste water treatment no threat to public health, safety and welfare can reasonably be expected from the proposed RV Park.

8. The waste water treatment system will be designed by a MPCA Licensed Designer that will comply with applicable county and state standards which will not require public infrastructure.
9. The proposed RV park redevelopment configuration complies with applicable ordinance standards.
10. The proposed RV Park will comply with applicable storm water management requirements.
11. The RV's will be for seasonal of transient use only and will not be occupied as year round residences or homesteaded,
12. Based upon 500 square feet per RV, the RV's will occupy about 7% of the total site area.

Conditions:

1. The typical RV site dimension and size is adopted as contained in the application submitted 06/22/16.
2. Water, sewer and electricity shall only be operational from May 1<sup>st</sup> to October 31<sup>st</sup>.
3. No occupancy or use shall occur from November 1 to April 30.
4. The waste water treatment system design shall be approved prior to any development.
5. Access shall only be through the existing approach to County #12.
6. The existing vegetative buffer along County #12 shall be maintained to a depth of not less than 100 feet.
7. The existing vegetative buffer along the north, east and south boundaries of the property shall be maintained to a depth of not less than 50 feet.
8. The guidelines/rules for occupants shall be submitted to the PC for review prior to any occupancy.
9. The applicant shall comply with applicable requirements of the Minnesota Department of Health and provide verification of such to ESD.
10. The applicant shall comply with applicable Storm Water Management requirements of the MPCA and provide verification of such to ESD.
11. The applicant shall submit a grading plan that includes construction phase erosion control measures to ESD prior to the commencement of construction.
12. Prior to commencement of construction and for the duration of construction, ESD shall be provided with verification of issuance of an MPCA NDPEs permit.
13. Following each year of operation, the applicant shall submit to ESD by 12/15 a summary report of the previous season's occupancy rate and Sheriff's Department calls to the facility until and if the Planning Commission considers such unnecessary.

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 CONDITIONAL USE PERMIT, REMOVAL OF VIOLATIONS AND MITIGATION.

SBA Communications/Verizon Wireless, Turtle Lake Township on property owned by Kathy Bieloh described as Govt Lot 3, SE NW & N  $\frac{1}{2}$  N  $\frac{1}{2}$  NE SW, Section 4-141-30, PID #45-004-2100 located at 7050 39<sup>th</sup> Avenue NW. An application submitted to locate and construct a 199

feet self-support monopole communication tower and a ground equipment structure which requires approval by conditional use permit (CUP). The relevant portions of the Land Use Ordinance include Section 705 which establishes the CUP standards and Section 1127 which establishes the communication tower standards. The property contains 98.7 acres (RR-2.5).

PC members were at the site of the application 07/05/16. 41 notices of the application were mailed with one response received. The application was reviewed and discussed with SBA representative Mr. Novak.

MS/P Fitch/Froehlig to approve the application for a communication tower at PID #45-004-2100 upon review of the criteria contained in Sections 705 and 1127 of the Land Use Ordinance along with M.S. 394.301 with the following findings and condition:

Findings:

1. The Comprehensive Plan recognizes the benefits of wireless communication to the residents of the County.
2. The Comprehensive Plan calls for the placement of communication towers to adequately service a geographic area.
3. There are no towers within the proposed service area where the equipment for the proposed tower could be located to adequately provide service to the area. .
4. No wetland or critical habitat will be disturbed or harmed by the location of the proposed tower.
5. No scenic or historic features will be disturbed or harmed by the location of the proposed tower.
6. The proposed tower will have no adverse material effect to public health, safety or welfare.
7. The proposed tower will not change or impact land use in the area.
8. Existing access to the property will be utilized and require no additional public infrastructure.
9. The proposed tower does not reach the mandatory EAW threshold.
10. The proposed tower will not reach mandatory lighting height.

Conditions:

1. The applicant must comply with applicable FAA and FCC requirements.
2. The tower must be available to other service providers at competitive rates.

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 CUP, REMOVAL OF VIOLATIONS AND MITIGATION.

Other Business

\* Request received from Doug Johnson to consider revision to VP15-141-31-4.

MS/P LaPorte/Froehlig to revise VP13-141-31-1 and VP15-141-31-4 as requested by Douglas Johnson and recommended by ESD staff member Scott Navratil correspondence dated 06/27/16.

\* Discuss equestrian and guest quarters/house revisions contained in the proposed Land Use Ordinance amendments as requested by the County Board.

MS/P LaPorte/Froehlig to adoption by the County Board of proposed Land Use Ordinance amendment to include the striking of language referring to horses, guest quarter rental and reduction of maximum footprint of guest quarter structure to contain no more than 700 square feet.

MS/P LaPorte/Froehlig at 4:08 PM, to adjourn.

P. Fairbanks