



Cass County  
Planning Commission/Board of Adjustment

April 10, 2017

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting April 10, 2017 in the meeting room of the Cass County Land Department in Backus. The field inspection for the meeting was April 3, 2017, with PC members Fitch, Froehlig, Kostial, LaPorte, Moore, Pehling and Sundberg along with ESD staff Berg, Fairbanks and Ringle in attendance.

Sundberg called the meeting to order at 9:35 a.m.

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

Staff Present: Berg and Fairbanks.

Citizens Present: Chris Anderson, Matt Davis, Karla Elsenpeter, Mike Elsenpeter, Nicolle Folven, Bill Hansen, Mark Jenni, Jim Kramer, Janet Krottoschninsky, Paul Marquette, Dustin Minick, David Olson, Rose Marie Pietz, Dick Rhoades, Magg Rhoades, Gary Severson, Terry Scmitt, Mark Wagner, Sandra Youngblom and Tom Youngblom.

MS/P Fitch/Pehling to approve the minutes of the 03/13/17 PC/BOA meeting as presented.

Variance

Anderson's Cove Resort, Leech Lake Township on property described as Part of Govt Lot 5 & Lots 1 & 2, Block 1, "Cove View", Section 9-143-31, PID #20-009-4303 located at 11246 Portside Court NW. An application submitted to replace an existing 20 feet x 40 feet resort cabin with new 30 feet x 40 feet construction at the current lake setback of 20 feet. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1104.9 K. which establishes resort structure replacement criteria and Section 1126.1 A. which requires structures to be located 75 feet from a lake classified General Development (GD). The property contains 20 acres riparian to Leech Lake (GD).

PC members were at the site 04/03/17. 72 notices of the application were mailed with no responses received. The application was reviewed and discussed with the resort manager Mr. Chris Anderson.

MS/P Pehling/Kostial to approve the application for a closer lake setback for a replacement resort cabin/unit to be located at Anderson's Cove Resort upon PID #20-009-4303 upon review

of the criteria contained in Sections 800, 1104.9 and 1126.1 of the Land Use Ordinance along with M.S. 394.27, Subd. 7 with the following findings and conditions:

Findings:

1. The property has long been utilized as a resort predating land use regulation.
2. The resort cabin to be replaced was obviously constructed prior to the adoption of land use regulation.
3. The resort cabin to be replaced which is non-conforming to lake setback could be replaced at existing footprint as allowed by ordinance and statute.
4. Based upon the location and proposed size, the new resort cabin will have no effect to neighboring property or lake users.
5. There is nothing to indicate that the proposed resort cabin 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. Approval of the application will not allow a use that is prohibited in the zoning district in which the subject property is located.
7. Approval of the application 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 of the application will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
9. The proposed cabin footprint will not affect current allowed resort density.

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 plan shall be approved by ESD and agreed to be implemented by applicant.
3. As determined by ESD staff the plan may be substantially implemented or financial assurance in an amount determined by ESD staff in the form of cash or a letter of credit shall be submitted.
4. As required by other conditions as set forth.

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. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD staff, 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.
2. The size and height of the new structure shall not vary from that submitted 03/07/17 unless approved by ESD staff or if necessary the Planning Commission.
3. The new structure shall not be less than 30 feet from the lake.
4. ESD staff must determine and if required, the applicant shall install approved construction erosion control.
5. Any material resulting from demolition and construction not reused or recycled must be disposed of in a permitted facility.
6. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
7. Applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
8. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 04/10/19.

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.

Campion, James, Crooked Lake Township on property described as Lots 8 & 9, Block 1, "Brown's Washburn Lake Addition", Section 5-139-26, PID #12-374-0130 located at 5603 Fehrs Drive NE. An application submitted to remove the existing residence located 47 feet from the lake with new construction to be located 57 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 located 75 feet from a lake classified General Development (GD). The property contains .6 acre riparian to Lake Washburn (GD).

PC members were at the site 04/03/17. 23 notices of the application were mailed with no responses received. The application was reviewed and discussed with Mr. Campion's daughter who was representing him. Discussion was devoted to the meaning/interpretation of "practical difficulties and to the meaning/interpretation of "circumstances unique to the property not created the landowner".

MS/P Kostial/Fitch to table consideration of the application until the 05/08/17 meeting in order for the applicant to consider possible placement options and for the PC to visit the site again.

Hondl, Marvin & Carol, Turtle Lake Township on property described as Part of Govt Lots 1 & 8, Section 31-143-30, PID #45-231-4303 located at 4497 Pine Point Circle NW. An application submitted to expand an existing accessory structure/garage with a 22 feet x 27 feet addition which will be 7½ 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 the closest property boundary line. The property contains .54 acre riparian to Leech Lake (GD). ).

PC members were at the site 04/03/17. 36 notices of the application were mailed. Three responses favoring approval of the application were received. The application was reviewed and discussed with carol and Marvin Hondl.

MS/P Kostial/Pehling to approve the application for variance for the accessory/garage structure located at PID #51-45-231-4303 upon review of the criteria contained in Sections 800 and 1126 1. of the Land Use Ordinance along with M.S. 394.27, Subd. 7 with the following findings and conditions:

Findings:

1. The garage was constructed in 1985 with permit.
2. The garage was damaged by a tree falling in 2016 requiring repair and the opportunity for a modest expansion.
3. The expansion will be away from and not visible to the lake.
4. There is nothing to indicate that the proposed expansion 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 no information or evidence to indicate that the application is primarily financially based.
6. Approval of the application will not allow a use that is prohibited in the zoning district in which the subject property is located.
7. Approval of the application 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 of the application will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
9. The decreased setback to the property boundary is 2½ feet and will not negatively impact the adjacent property owner.

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 plan shall be approved by ESD and agreed to be implemented by applicant.
3. As determined by ESD staff the plan may be substantially implemented or financial assurance in an amount determined by ESD staff in the form of cash or a letter of credit shall be submitted.
4. As required by other conditions as set forth.

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. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD staff, 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.
2. The size, location and height of the structure expansion shall not vary from that submitted 03/21/17 unless approved by ESD staff or if necessary the Planning Commission.
3. ESD staff must determine and if required, the applicant shall install approved construction erosion control.
4. Any material resulting from construction not reused or recycled must be disposed of in a permitted facility.
5. Applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
6. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
7. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 04/10/19.

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.

Kuhl, Carol, Wabedo Township on property described as Lot 12, Block 1, "Berg's North View", Section 14-140-28, PID #46-395-0150 located at 3609 South Little Boy Drive NE. An application submitted to remove the existing residence in order to construct 44 feet x 54 feet

residence/deck to be located 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 located 100 feet from a lake classified Recreation Development (RD). The property contains 1 acre riparian to Little Boy Lake (RD). PC members were at the site 04/03/17. 18 notices of the application were mailed. One response from Wabedo Township recommending denial of the application was received. The application was reviewed and discussed with the applicant's representative from Ideal Homes of Barnum MN.

MS/P Kostial/Moore to deny approval of the variance proposed for PID #46-395-0150 upon review of the criteria contained in Section 800 of the Land Use Ordinance along with M.S. 394.27, Subd. 7 with the following findings and conditions:

Findings:

1. "Berg's North View" along with Norway Lane was platted in 1973.
2. A newly designed SSTS is to be installed which will allow for placement of the new residence at the required setback.
3. The applicant could pursue the vacation of a portion of the platted right-of-way of Norway Lane which could result in a revised property/right-of-way boundary line and increase the lot size by 3,600 square feet.
4. The topography of the lot seems relatively flat from the slope to the lake and does not pose a limitation to placement options.
5. Based upon Findings 1 - 4, the "practical difficulties" standard is not met as used in connection with the granting of a variance because the configuration and topography do not create a circumstance unique to the property that justifies a closer lake setback.

Malenke, Richard, Kego Township on property owned by Laurie Anderson described as Part of Govt Lot 1, Section 3-141-28, PID #19-003-1007 located at 7037 Town Line Drive NE. An application submitted to place an 8 feet x 40 feet shipping container on the parcel for storage purposes. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1104.6 which prohibits the use of shipping containers for storage. The property contains 5.6 acres riparian to Town Line Lake (RD).

PC members were at the site 04/03/17. 26 notices of the application were mailed. Four responses were received opposed to approval of the application were received. The application was reviewed and discussed with the seller's representative Mr. Hansen. Fairbanks explained that it is his opinion that such cargo/storage structures are not prohibited by the Land Use Ordinance.

MS/P Moore/Froehlig to approve the variance application submitted for the structure to be located upon PID #19-003-1007 upon review of the criteria contained in Sections 800 and 1126 1.A. of the Land Use Ordinance along with along with M.S. 394.27, Subd. 7 with the following findings and conditions:

## Findings:

1. The lot became of record in 2008 and contains 5.6 acres.
2. The proposed storage structure location will comply with all applicable setback requirements.
3. Because of the size of the lot the proposed storage structure is not limited based upon lot size.
4. The proposed storage structure is not a semi-trailer because it will not have a rear axle assembly, a fifth wheel or a landing gear and will be placed on the ground or on a foundation.
5. The proposed storage structure is not a railroad car or mobile home.
6. The proposed storage structure will be unseen and unobtrusive from the lake and neighboring property which therefore 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.
7. Approval of the application will not allow a use that is prohibited in the zoning district in which the subject property is located.
8. Approval of the application 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 of the application will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
10. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

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.

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 structure shall comply with all applicable setback requirements.
2. The structure shall not have a rear wheel assembly, a fifth wheel or dolly wheels.
3. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
4. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 04/10/19.

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.

Olson, David & Trudi, Ponto Lake Township on property described as Lot 2, Block 1, "Re-Arrangement of Lots 7, 8 and 9, Block Two", "Hand Lake Homesites", Section 14-139-29, PID #32-395-0120 located at 445 Hand Lake Lane NW. An application submitted to expand an existing non-conforming residence with a 12 feet x 26 feet addition. The residence is non-conforming because it is located at less than 30 feet from the top of a bluff. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1115.3 which establishes the non-conforming expansion 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 1.5 acres riparian to Hand Lake (RD). ).

PC members were at the site 04/03/17. 28 notices of the application were mailed with no responses received. The application was reviewed and discussed with Trudi and David Olson. Discussion was devoted to the meaning/interpretation of "practical difficulties, to the meaning/interpretation of "circumstances unique to the property not created the landowner", and the existing bluff and lake setback of the residence to be expanded.

MS/P Froehlig/LaPorte to table consideration of the application until the 05/08/17 meeting in order for the existing lake and bluff setbacks to be determined and for the PC to visit the site again.

Paquin, Roger & Jayna, Smoky Hollow Township on property described as Lot 5, Block 1, "Little Thunder Lake Homesites", Section 7-140-25, PID #40-364-0125 located at 7694 Little Thunder Drive NE. An application submitted to replace the existing residence with new walk-out construction to be located 13 feet from the top of a bluff and 95 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1126.1 A. which requires structures to be located 100 feet from a lake classified Recreational Development (RD) and Section 1126.1 B. which requires structures to be located 30 feet from the top or toe of a bluff. The property contains .5 acre riparian to Little Thunder Lake (RD). ).



PC members were at the site 04/03/17. 33 notices of the application were mailed. One response advocating for denial of the application was received. The application was reviewed and discussed with Mr. Paquin and Mr. Severson. After discussion of bluff setback, drainage and the configuration of the proposed residence, the application was withdrawn from consideration at the request of the applicant Mr. Paquin.

Pfaff, Larry & Kathryn, Crooked Lake Township on property described as Lots 5, 6 & 7, Block 1, "Morrison's Milgamor Shores", Section 17-139-26, PID #12-435-0140 & PID# 12-435-0130 located at 1350 Plummer Point Road SE. An application submitted to replace an existing solarium with a 10½ feet x 20½ second floor addition to the residence which is located 66 feet at the closest point 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 structure criteria and Section 1126.1 A. which requires structures to be located 75 feet from a lake classified General Development (GD). The property contains 2.3 acres riparian to Lake Washburn (GD).

PC members were at the site 04/03/17. 44 notices of the application were mailed with no responses received. The application was reviewed and discussed with Pfaff's contractor from Nor-Son Construction.

MS/P Kostial/Fitch to approve the variance as submitted for the residence located upon PID #12-435-0140 & PID #12-435-0130 upon review of the criteria contained in Sections 800, 1115.3 and 1126 1.A. of the Land Use Ordinance along with along with M.S. 394.27, Subd. 7 with the following findings and conditions:

Findings:

1. The property became of record in 1965 and contains 2.25 acres.
2. The solarium was approved as part of a permit for an addition to the residence in 2000.
3. The removal of the solarium and replacement structure will not affect footprint, volume or existing setback.
4. There is nothing to indicate that the proposed replacement construction will have any perceptible detrimental visual impact to Lake Washburn or 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.
5. The proposed replacement construction will be unseen and unobtrusive from the lake and neighboring property which therefore 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. The surrounding area along Lake Washburn contains structures similar in size and scale to that proposed therefore there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed lot use.
7. Approval of the application will not allow a use that is prohibited in the zoning district in which the subject property is located.
8. Approval of the application 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 of the application will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
10. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

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.

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 dimensions, location and configuration of the residence replacement portion shall not vary from that submitted 03/21/17 unless approved by ESD staff or if necessary, the PC/BOA.
2. Any material resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
3. ESD shall determine the need for construction erosion control and, if required, the applicant shall install ESD staff approved erosion control placement prior to the commencement of construction.
4. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD staff, 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. The applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
6. Applicant consents to inspection of the property by ESD staff to verify compliance with conditions.
7. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 04/10/19.

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.

Pietz, Rose Marie, May Township on property described as NW NW SW, Section 10-134-31, PID #24-110-4300 located along County #102. An application submitted to be allowed to exceed the four new lot limit by one lot containing 10 acres. The applicable ordinance references include Section 800 of the Land Use Ordinance which establishes variance criteria and the Subdivision & Platting Ordinance Article 3.03 A., "The number of new lots created from any one lot existing as of August 15, 2002 does not exceed four, including the residual, except for boundary line adjustments". The area to be contained in the new lot is 10 acres.

25 notices of the application were mailed with no responses received. The application was reviewed and discussed with Ms. Pietz's representative.

MS/P LaPorte/Pehling to approve the variance application as submitted for the parcel to be described as NW $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$  upon review of the criteria contained in Section 800 of the Land Use Ordinance along with along with M.S. 394.27, Subd. 7 and Article 3.03 A of the Subdivision and Platting Ordinance with the following findings and conditions:

Findings:

1. 40 acres of the property was reclassified in 2004 in order to divide into 4 aliquot described parcels each containing 10 acres plus or minus.
2. Since the lots were created post 08/15/04 the 4 lot maximum was reached.
3. There is nothing to indicate that the proposed lot will have any detrimental impact to 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.
4. The proposed lot is comparable in size to adjacent parcels and unobtrusive from neighboring property which therefore 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.

5. The surrounding area contains lots similar in size and configuration to that proposed therefore there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed lot use.
6. Approval of the application will not allow a use that is prohibited in the zoning district in which the subject property is located.
7. Approval of the application 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 of the application will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.

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.

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 dimensions, location and configuration of the parcel shall not vary from the KLD description submitted 03/08/17 unless approved by ESD staff or if necessary, the PC/BOA.
2. Any further lot/creation/division shall comply with ordinance requirements.
3. Unless extended or revised by the Planning Commission this approval shall be effective until 04/10/19.

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.

Rhoades, Richard & Margaret, Sylvan Township on property described as Part of Govt Lot 2, Section 5-133-30, PID #41-205-1303 located at 3848 South Pillager Lake Drive SW. An

application submitted to replace the existing 32 feet x 26 feet residence located 26 feet from the lake with a new 46 feet x 48 feet residence with 24 feet x 26 feet attached garage to be located 60 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 located 100 feet from a lake classified Recreational Development (RD). The property contains 1.2 acres riparian to Pillager Lake (RD).

PC members were at the site 04/03/17. 20 notices of the application were mailed. One response from Sylvan Township recommending denial of the application was received. The application was reviewed and discussed with Margaret and Richard Rhoades. After discussion of the configuration of the proposed residence and the lack of impediments to placement at required setback, the application was withdrawn from consideration at the request of the applicant Mr. Rhoades.

Wagner, Mark & Parrott, Laurel, Woodrow Township on property described as Lots 10, 11 & Part of Lot 12, Block 1, "Minne Teepe Portage", Section 22-140-29, PID #51-452-0160 located at 835 County 11 NW. An application submitted to construct a 24 feet x 24 feet accessory structure/garage 70 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes the variance criteria and Section 1126.1 A. which requires structure to be located 150 feet from a lake classified Natural Environment (NE). The property contains .5 acre riparian to IXL Lake (NE).

PC members were at the site 04/03/17. 47 notices of the application were mailed with no responses received. The application was reviewed and discussed with Mr. Wagner.

MS/P LaPorte/Kostial to approve the variance as submitted for the accessory structure to be constructed upon PID #51-452-0160 upon review of the criteria contained in Sections 800 and 1126 1. of the Land Use Ordinance along with along with M.S. 394.27, Subd. 7 with the following findings and conditions:

Findings:

1. "Minne Teepe Portage" was platted in 1923 prior to the adoption of minimum lot standards or lake classification.
2. PID #51-452-0160 contains .5 acre and varies in depth from the lake to County #11 from 140 feet to 175 to which the required lake setback is 150 feet and required right-of-way setback is 20 feet.
3. Based upon lot depth compliance with required setback is not possible.
4. The square footage of the proposed accessory/garage structure will comply with size parameters based upon lot size.
5. There is nothing to indicate that the proposed structure will have a detrimental visual impact from IXL Lake or 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.

6. The proposed structure will not be overtly unsightly or obtrusive to the lake or neighboring property which therefore 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.

7. The surrounding area along IXL Lake contains structures similar in size and scale to that proposed therefore there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed lot use.

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

9. Approval of the application 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.

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

11. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

**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.

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 dimensions, location and configuration of the structure shall not vary from that submitted 03/10/17 unless approved by ESD staff or if necessary, the PC/BOA.

2. Any material resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
3. ESD shall determine the need for construction erosion control and, if required, the applicant shall install ESD staff approved erosion control placement prior to the commencement of construction.
4. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD staff, 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. The applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
6. Applicant consents to inspection of the property by ESD staff to verify compliance with conditions.
7. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 04/10/19.

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.

#### Conditional Use Permit

Elsenpeter, Mike & Karla, Shingobee Township on property described as Part of Govt Lot 2, Section 35-142-31, PID #38-135-1303 located at 5301 Ladyslipper Lane NW. An application submitted for a conditional use permit (CUP) for the excavation and placement of more than 1,000 cubic yards of earthen material to construct walk-out access to the north side of the residence and to rebuild and increase the height of the existing driveway. The applicable portions of the Land Use Ordinance include Section 705 which establishes the CUP criteria and Section 1106.2 A. which requires a CUP for the excavation/grading of more than 50 cubic yards of earthen material within the Shore Impact Zone and more than 200 cubic yards within Shoreland Zone. The property contains 6 acres riparian to Leech Lake (GD).

PC members were at the site 03/06/17 and 04/03/17. 75 notices of the application were mailed with no responses received. The application was reviewed and discussed with Ms. Elsenpeter, Mr. Elsenpeter, Mr. Davis and Mr. Kramer.

M Moore/No Second/Motion Failed to deny approval of the application based upon the proposed project's volume of cubic yards of excavation/grading potential to negatively impact the natural topography and the project's incompatibility with the Comprehensive Plan's goals and objectives to preserve the natural environment and to prevent the degradation of surface and ground water.

MS/P Froehlig/LaPorte to approve the walk-out portion of the application for the residence located at PID #38-135-1303 for excavation and grading upon review of the criteria contained

in Sections 705 and 1106.2 of the Land Use Ordinance along with M.S. 394.301 with the following findings and conditions:

Findings:

1. The walk-out area will not disturb Shore Impact Zone One.
2. The walk-out area will not be observable from the lake and neighboring property.
3. No wetland or critical habitats will be affected by the walk-out construction.
4. No scenic or historic features will be affected by the walk-out construction.
5. No evidence or information has been submitted to establish that the walk-out construction will have a detrimental effect to public health, safety or welfare.
6. No evidence or information has been submitted to establish that the walk-out construction has the potential to alter or be detrimental to land use in the general area.
7. Approval will not increase the need or demand for governmental services because no public road improvements are required.
8. No evidence or information has been submitted to establish that the walk-out construction will negatively affect Leech Lake or the wetland area on the property.
9. Approval will not contradict the purpose of the official controls, 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 also to promote the health, safety, general welfare.
10. The walk-out site is not adjacent to or observable from residential structures, public infrastructure or the public in general which therefore 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.

Conditions:

1. The plans and specifications from Schultz Engineering and Site Design dated 03/21/17 are adopted for implementation and shall not be revised without review and approval of ESD staff or if necessary, the Planning Commission.
2. ESD staff shall inspect erosion control installation prior to the commencement of excavation/grading.
3. Vegetative seeding type, amount and location shall be approved ESD staff prior to the commencement of excavation/grading.
4. Financial assurance in the amount of \$5,000 in the form of cash or Letter of Credit shall be submitted to ESD prior to the commencement of construction and shall be returned upon approval of ESD staff approval of excavation/grading and seeding completion.
5. The total amount of excavation shall not exceed 600 cubic yards which may be utilized for the driveway re-construction project.
6. Unless revoked or otherwise revised by the Planning Commission this approval shall be effective until 04/10/19.



MS/P Kostial/Froehlig to approve the driveway portion of the application for the residence located at PID #38-135-1303 for excavation and grading upon review of the criteria contained in Sections 705 and 1106.2 of the Land Use Ordinance along with M.S. 394.301 with the following findings and conditions:

Findings:

1. The driveway re-construction will not disturb the Shore Impact Zone.
2. The driveway re-construction will not be observable from the lake and neighboring property.
3. No wetland or critical habitats will be affected by the driveway re-construction.
4. No scenic or historic features will be affected by the driveway re-construction.
5. No evidence or information has been submitted to establish that the driveway re-construction will have a detrimental effect to public health, safety or welfare.
6. No evidence or information has been submitted to establish that the driveway re-construction has the potential to alter or be detrimental to land use in the general area.
7. Approval will not increase the need or demand for governmental services because no public road improvements are required.
8. No evidence or information has been submitted to establish that the driveway re-construction will negatively affect Leech Lake or the wetland area on the property.
9. Approval will not contradict the purpose of the official controls, 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 also to promote the health, safety, general welfare.
10. The driveway is not adjacent to or observable from residential structures, public infrastructure or the public in general which therefore 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.

Conditions:

1. The plans and specifications from Schultz Engineering and Site Design dated 03/21/17 are adopted for implementation and shall not be revised without review and approval of ESD staff or if necessary, the Planning Commission.
2. ESD staff shall inspect erosion control installation prior to the commencement of excavation/grading.
3. Vegetative seeding type, amount and location shall be approved ESD staff prior to the commencement of excavation/grading.
4. Financial assurance in the amount of \$5,000 in the form of cash or Letter of Credit shall be submitted to ESD prior to the commencement of construction and shall be returned upon approval of ESD staff approval of excavation/grading and seeding completion.

5. The total amount of material imported for the driveway re-construction shall not exceed 800 cubic yards.
6. The total amount of earthen material utilized for the driveway re-construction project shall not exceed 1,400 cubic yards.
7. The applicant shall submit to ESD, prior to the commencement of construction, acknowledgement from a licensed professional engineer confirming that the driveway re-construction has been designed with construction and post construction measures and mechanisms such as silt fence, bale checks, rain gardens and seeding to assure that run-off to Leech Lake, adjacent wetlands or adjacent property will not increase as a result of the driveway re-construction.
8. Unless revoked or otherwise revised by the Planning Commission this approval shall be effective until 04/10/19.

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 TowerCo to extend the expiration date of CU14-133-31-1 which was approved 05/12/14 for a communication tower to be constructed in May Township.

MS/P LaPorte/Fitch to extend the expiration of CU14-133-31-1 to 04/10/18.

Request from ESD to revise Condition #2 of VP17-140-28-1 which was approved 03/13/17.

MS/P LaPorte/Fitch to revise Condition #2 of VP17-140-28-1 to 80 feet.

MS/P Fitch/Pehling at 12:47 PM, to adjourn.

P. Fairbanks