



Cass County  
Planning Commission/Board of Adjustment

August 14, 2017

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting August 14, 2017 in the meeting room of the Cass County Land Department in Backus. The field inspection for the meeting was conducted August 7, 2017 with PC members Fitch, Froehlig, Moore and Pehling along with ESD staff Berg and Fairbanks in attendance and August 8, 2017 with PC members Fitch, Froehlig, LaPorte, Moore and Sundberg along with ESD staff Berg and Fairbanks in attendance.

Sundberg called the meeting to order at 9:36 a.m.

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

Staff Present: Berg, Fairbanks, Navratil and Ringle.

Citizens Present: Alice Archer, Alexis Barnett, Phil Blott, Bruce Bryant, Linda Bryant, Doug Burger, Eugene Gietz, Dan Greer, Alice DeLane, Paul DeLane, Dave Goetzke, James Hennesy, Susan Hennesy, Robert W Johnson, Betty Kirchner, Tom Kirchner, Kevin Larson, Michael Lauritzen, Donna Lashinski, Tom Lashinski, Mark Liebrecht, Roger Long, Wanda Long, Christine Moore, Craig Moore, Joe Nylin, Peggy Nylin, Jeff Peterson, Don Ploenzke, Matt Pollard, Nancy Richards, Rod Richards, Beth Ritter, David Ritter, David Smith, Donna Smith, Avery Ruyak, Brooklyn Ruyak, Marc Ruyak, Sheryl Waldhauser, Gary Waters, Bruce Wenner, Robyn Willette and Bill Witt.

MS/P Fitch/Pehling to approve the minutes of the 07/17/17 PC/BOA meeting.

Variance

Boell, Steve & Lorie, Inquadona Township on property described as Lot 8, Block 1, "Equademog Shores", Section 32-141-27, PID #18-436-0140 located at 2993 Tall Pines Trail NE. An application to expand a non-conforming residence with an 8 feet x 12 feet expansion of the existing deck and a 12 feet x 26 feet addition to the side of the residence. Neither expansion will be any closer to the lake than the existing lake setback. 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 .55 acre riparian to Lake Inquadona (GD).

PC members were at the site 08/07/17. 40 notices of the application were mailed with no responses received. The application was reviewed and discussed with the applicants' representative/contractor Doug Burger.

MS/P Froehlig/Moore to approve the application to expand the non-conforming residence located at PID #18-436-0140 upon review of the criteria contained in Sections 800, 1115.3 and 1126.5 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 1970 and the original construction occurred in 1970 with permit at 58 feet from the lake for a different owner.
2. Neither expansion will be closer to the lake than the setback of the residence.
3. Based upon the location and configuration of the proposed expansions, there is no evidence or indication that they will have a negative effect on neighboring property or lake users.
4. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
5. Approval of the application assuming compliance with applicable erosion control 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.
6. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
7. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
8. Based upon the above findings and the following conditions associated with this approval, there is nothing to indicate that the proposed deck and structure expansion will alter, disturb or negatively impact existing land use or neighboring property which 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.

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.

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 as required by ESD.

Conditions:

1. The expansions shall be in the size and configuration as illustrated in the application submitted 07/26/17.
2. Any revision to the site plan included in the application shall be approved by ESD or if necessary the Planning Commission.
3. No run-off to the lake or adjoining properties is permitted. 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. ESD staff must determine and if required construction erosion control shall be installed.
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. 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.
9. 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 prior to the issuance of any permit.
10. If financial assurance is required, ESD shall determine a schedule to return and/or reduce the amount of financial assurance.
11. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 08/14/19.

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.

DeFrances, Errol, Meadowbrook Township on property described as Lot 36, Block 1, "Wilderness Park Estates 2<sup>nd</sup> Addition", Section 12-135-31, PID #26-342-0170 and Lot 37, Block 1, "Wilderness Park Estates 2<sup>nd</sup> Addition, Section 12-135-31, PID #26-342-0172 located at 7763

Meadow Lake Road SW. An application to place a RV 70 feet from the lake and a SSTS holding tank 100 feet from the lake. In addition, the application includes a request, "after the fact", to be allowed to retain a 12 feet x 16 feet guest quarters/bunkhouse placed sans permit. The application also includes a request to expand this guest quarters/bunkhouse with a 12 feet x 14 feet addition and 14 feet x 16 feet deck. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1126.1 A. which requires structures and SSTS to be located 150 feet from a lake classified Natural Environment (NE) and Section 1126.1 B which requires structure to be setback 20 feet from the right-of-way of a platted road and 10 feet from a property boundary line. The combined lots contain 1.3 acres riparian to Meadow Lake (NE).

PC members were at the site 08/08/17. 45 notices of the application were mailed with no responses received. The application was reviewed and discussed with Mr. DeFrances.

MS/P Moore/Fitch to deny the RV as guest cottage portion of the application for variance for PID #26-342-0170/0172 based 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 with the following findings:

Findings:

1. A guest cottage cannot be allowed at less than the required lake setback.
2. A guest cottage must be located to reduce visibility as viewed from public water which is not possible on the property as based upon the depth of the lot from the lake to Meadow Lake Road.
3. The request for the RV as guest quarters fails to meet the "practical difficulty" standards as prescribed by statute and ordinance.

MS/P Moore/Froehlig to approve the retention and expansion of the existing non-conforming residential structure located and SSTS holding tank location for PID #26-342-0170/0172 based 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 "Stadsvold" decision criteria with the following findings and conditions:

Findings:

1. Based upon aerial photography about half of the platted area of the combined lots is under water.
2. Based upon aerial photography, the distance from the lake to the road measures from 70 feet to 130 feet which makes setback at the required 150 feet problematical.
3. The property was platted in 1972 and the existing structure was constructed sans permit by a previous owner.
4. Based upon the location and of the structure and proposed expansion, there is no evidence or indication that it has or will have a negative effect on neighboring property or lake users.
5. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.

6. Approval of the application assuming compliance with applicable erosion control 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.
7. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
8. There is no reason or evidence to conclude that financial consideration is the sole basis of the application.
9. Based upon the above findings and the following conditions associated with this approval, there is nothing to indicate that the proposed structure expansion will alter, disturb or negatively impact existing land use or neighboring property which 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.

"Stadsvold" - After the Fact Findings:

1. The distance from the OHWL does not allow for compliance with lake setback.
2. There is nothing to indicate or anyway to determine that the former owner did not act in good faith when the assembly and placement took place.
3. There is nothing to indicate or anyway to determine if the former owner inquired as to permit requirements.
4. Construction of the structure has been completed.
- 5 There are similar structures throughout the county.
6. The degree of impact to the area and the land use system is insignificant and the County's benefits by denying a variance to the land use standards are 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 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.

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 as required by ESD.

Conditions:

1. The applicable land use permit along with any administrative fee determined by ESD must be obtained by 07/31/17.
2. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
3. Applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
4. 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.
5. 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.
6. If financial assurance is required, ESD shall determine a schedule to return and/or reduce the amount of financial assurance.

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.

DeLane, Alice & Paul, May Township on property described as Part of Govt Lot 5, Section 7-133-31, PID #24-007-2706 located at 12532 71<sup>st</sup> Avenue SW. An application to expand a non-conforming residence with a 12 feet x 14 feet addition. The residence is non-conforming because it is located less than 150 feet from the river. 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 150 feet from a river or stream classified Forested (F). The property contains 7.41 acres riparian to the Crow Wing River (F).

PC members were at the site 08/08/17. 24 notices of the application were mailed with no response received. The application was reviewed and discussed with Alice and Paul DeLane.

MS/P Moore/LaPorte to approve the application for the expansion of the non-conforming residence located at PID #24-007-2706 based upon the criteria of Section 800 of the Land Use Ordinance and MS 394.27 Subdivision 7 with the following findings and conditions:

Findings:

1. The property became of record in 1952.

2. The residence was located and constructed with ZP00-133-31-1 by the former owner.
3. Based upon the location and configuration of the proposed addition, there is no evidence or indication that it will have a negative effect on neighboring property or river users.
4. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
5. Approval of the application assuming compliance with applicable erosion control 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.
6. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
7. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
8. Based upon the above findings and the following conditions associated with this approval, there is nothing to indicate that the proposed addition will alter, disturb or negatively impact existing land use or neighboring property which 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.

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.

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 as required by ESD.

Conditions:

1. The addition shall be of the size, configuration and location as illustrated in the application submitted 07/25/17 and shall not be revised unless approved by ESD or if necessary the Planning Commission.

2. No run-off to the lake or adjoining properties is permitted. 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.
3. ESD staff must determine and if required construction erosion control shall be installed.
4. Any material resulting from demolition and construction not reused or recycled must be disposed of in a permitted facility.
5. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
6. Applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
7. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 08/14/19.

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.

Fredrickson, Natalie, Shingobee Township on property described as Lot 4, Block 3, & Part of Outlot A, "Ullands South View Acres", Section 5-142-31, PID #38-485-0340 located at 9218 Cooks Loop NW. An application to place riprap along the portion of the harbor along the applicant's property in excess of the usual permitted height, 2 feet, above the ordinary high water level (OHWL) to 6 feet above the OHWL. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1106.4 D. which establishes rip-rap criteria and the DNR Publication "Shoreline Alterations: Riprap" which establishes the maximum height above the OHWL, 2 feet, allowed for riprap. The property contains .9 acre riparian to Leech Lake (GD).

The application was withdrawn from consideration at the request of Ms. Fredrickson.

Gaines, Maarten, Woodrow Township on property described as Lots 18 & 19, Block 2, "Minne Teepe Portage", Section 22-140-29, PID #51-452-0255 located at 854 County #11 NW. An application submitted to expand an existing non-conforming residence located 53 feet from the lake with a 10 feet x 16 feet addition and a 10 feet x 10 feet addition along with a second story addition all located at the existing lake setback. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1115.3 which contains 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 .7 acre riparian to Woman Lake (GD).

PC members were at the site 08/07/17. 45 notices of the application were mailed with no response received. The application was reviewed and discussed with Mr. Gaines.



MS/P Moore/Fitch to table the application until the 11/13/17 meeting as requested by Mr. Gaines.

Greer, Daniel & Moe-Greer, Laurie, Shingobee Township on property described as Part of Govt Lots 1 & 2, Section 2-141-31, PID #38-002-4101 & PID #38-002-4114 located at 6886 Copper Head Pass. An application submitted to allowed, "after the fact", to retain a PID #38-002-4114 which does not comply with the minimum width requirement for a non-riparian GD lot. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1113.1 which contains the minimum lot standards. The property contains 4.34 acres non-riparian within the shoreland area (.25 mile) of Leech Lake (GD).

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

MS/P Moore/Fitch to approve the application for the lot configuration for PID #38-002-4114 based upon the criteria of Section 800 of the Land Use Ordinance and MS 394.27 Subdivision 7 with the following findings.

Findings:

1. The unique shape of the underlying property configuration does not allow for compliance with the non-riparian lot width determination.
2. Based upon the configuration of the two non-riparian and existing conditions, there is no evidence or indication that they will have had a negative effect on neighboring property or lake users.
3. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
4. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
5. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
6. Based upon the above findings associated with this approval, there is nothing to indicate that the lot configuration has or will alter, disturb or negatively impact existing land use or neighboring property which 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.

Hennesy, Jim, Shingobee Township on property described as Part of Lot 11, Block 1, "Howard Lake Shores", Section 31-141-31, PID #38-452-0155 located at 4977 Howard Lake Road NW.

An application submitted to expand an existing non-conforming residence located 85 feet from the lake with a 5 feet x 8 feet addition to be located 95 feet from the lake and a 6 feet x 12 feet addition to be located 97 feet from the lake. In addition, the application calls for an 8 feet x 12 feet addition to be located non-lakeside less than 30 feet from the toe of a bluff. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1115.3 which establishes non-conforming structure expansion criteria and Section 1126.1 A. which requires structures to be setback 100 feet from a lake classified Recreational Development (RD). The property contains 1.3 acres riparian to Howard Lake (RD).

Consideration of this application was tabled during the 07/17/17 meeting. PC members were at the site 07/07/17 and 08/07/17. 22 notices of the application were mailed for the 07/17/17 meeting and 08/14/17 meeting. 4 responses, all opposed, were received for the 07/17/17 meeting mailing. No responses were received in response to the 08/14/17 meeting mailing. The application was reviewed and discussed with Sue and Jim Hennesy.

MS/P Moore/Fitch to approve the application as revised for the expansion of the non-conforming residence located at PID #38-452-0155 based upon the criteria of Section 800 of the Land Use Ordinance and MS 394.27 Subdivision 7 with the following findings and conditions:

Findings:

1. The property was platted in 1981.
2. The residence was constructed at 85 feet which was allowed in 1998 by ZP98-141-31-26.
3. The application is limited to and includes a 6 feet x 10 feet deck setback 79 feet from the lake and 5 feet x 8 feet addition at 95 feet.
4. The 8 feet x 12 feet addition non-lakeside does not require variance because it will exceed 100 feet from the lake.
5. The request for an accessory structure within the bluff area has been withdrawn.
6. The accessory structure proposed near the residence will comply with lake, Sideyard and bluff setback therefore not requiring a variance.
7. Another accessory structure that might be constructed at the top of the lot would also comply with applicable setbacks when and if constructed.
8. Based upon the location and configuration of the proposed deck and addition expansions, there is no evidence or indication that they will have a negative effect on neighboring property or lake users.
9. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
10. Approval of the application assuming compliance with applicable erosion control 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.
11. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
12. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

13. Based upon the above findings and the following conditions associated with this approval, there is nothing to indicate that the proposed deck and structure expansion will alter, disturb or negatively impact existing land use or neighboring property which 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.

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.

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 as required by ESD.

Conditions:

1. The deck and addition shall be of size and configuration as illustrated in the document submitted 07/24/17.
2. Any revision to the site plan submitted 07/24/17 shall be approved by ESD or if necessary the Planning Commission.
3. No run-off to the lake or adjoining properties is permitted. 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. ESD staff must determine and if required construction erosion control shall be installed.
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. 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.
9. 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 prior to the issuance of any permit.
10. If financial assurance is required, ESD shall determine a schedule to return and/or reduce the amount of financial assurance.
11. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 08/14/19.

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.

Lauritzen, Michael, Hiram Township on property described as Part of Govt Lot 2, Section 8-140-31, PID #16-008-1405 located at 4200 County #71 NW. An application submitted to construct a 24 feet x 24 feet accessory structure/garage setback 70 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 .24 acre riparian to Ten Mile Lake (GD).

PC members were at the site 08/07/17. 18 notices of the application were mailed with one response of no objection to approval received. The application was reviewed and discussed with Mr. Lauritzen.

MS/P LaPorte/Fitch to approve the application for the accessory structure/garage to be located at PID #16-008-1405 based upon the criteria of Section 800 and 1126.1 B. of the Land Use Ordinance and MS 394.27 Subdivision 7 with the following findings and conditions:

Findings:

1. The property became of record in 1967.
2. The lot measures 101' x 103' and contains .24 acre which severely limits placement options.
2. The residence was constructed at 27 feet to replace a mobile home as approved by V02-140-31-2 for a former owner.
3. Based upon the location and size of the proposed accessory structure/garage, there is no evidence or indication that they will have a negative effect on neighboring property or lake users.
4. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
5. Approval of the application assuming compliance with applicable erosion control 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.

6. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
7. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
8. Based upon the above findings and the following conditions associated with this approval, there is nothing to indicate that the proposed accessory structure/garage will alter, disturb or negatively impact existing land use or neighboring property which 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.

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.

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 as required by ESD.

Conditions:

1. The accessory structure/garage shall be of the size and configuration as illustrated in the application submitted 07/05/17 and shall not be revised unless approved by ESD or if necessary the Planning Commission.
2. No run-off to the lake or adjoining properties is permitted. 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. ESD staff must determine and if required construction erosion control shall be installed.
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. 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.
9. 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 prior to the issuance of any permit.
10. If financial assurance is required, ESD shall determine a schedule to return and/or reduce the amount of financial assurance.
11. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 08/14/19.

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.

Liebrecht, Mark, Slater Township on property described as Part of Govt Lot 10, Section 14-142-26, PID #39-014-2300 located at 8586 W Grave Lake Road NE. An application submitted to construct a residence to be located within a bluff impact zone which is that area 30 feet from the top or toe 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 setback 30 feet from the top or toe of a bluff. The property contains .319 acres riparian to Graves Lake (NE).

PC members were at the site 08/07/17. 11 notices of the application were mailed. Six responses all objecting to approval of the application were received. The application was reviewed and discussed with Mr. Liebrecht.

MS/P Moore/Kostial to approve the application for the location of the residence to be located upon PID #39-014-2300 based upon the criteria of Sections 800 and 1126.1 B. of the Land Use Ordinance and MS 394.27 Subdivision 7 with the following findings and conditions:

Findings:

1. The property became of record in 1971 prior to the inclusion of the bluff standards into the minimum lot standards.
2. The entire lot is a bluff.
3. The existing RV was placed as approved by VP05-142-26-1.
4. The proposed residence will be mostly unobservable from the lake and undetectable from neighboring residences.
5. Based upon the location, size and configuration of the proposed residence, there is no evidence or indication that they will have a negative effect on neighboring property or lake users.

6. Approval 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 erosion control 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.

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

10. Based upon the above findings and the following conditions associated with this approval, there is nothing to indicate that the proposed residence/deck will alter, disturb or negatively impact existing land use or neighboring property which 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.

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.

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 as required by ESD.

Conditions:

1. The residence/deck shall be of size and configuration as submitted with the application 07/26/17.

2. Any revision to the site plan submitted 07/26/17 shall be approved by ESD or if necessary the Planning Commission.

3. No run-off to the lake or adjoining properties is permitted. 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. ESD staff must determine and if required construction erosion control shall be installed.
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. Any vegetative alteration from the residence to the lake must be reviewed on site by ESD and approved by a Shoreline Alteration Permit.
8. The RV must be removed from the site within six months of occupancy of the residence.
9. The width of the bottoms of the walk-out area shall not exceed 12 feet.
10. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 08/14/19.

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.

Nordland, Sarah, Shingobee Township on property described as Part of Govt Lot 4, Section 35-141-31, PID #38-035-2304 located at 5586 50<sup>th</sup> Street SW. An application submitted to expand an existing non-conforming residence located 61 feet from the lake with an 8 feet x 3 feet addition and a 16 feet x 40 feet addition both to be located 61 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1115.3 which contains 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 2.36 acres riparian to Ten Mile Lake (GD).

PC members were at the site 08/07/17. 18 notices of the application were mailed with no responses received. The application was reviewed and discussed with applicant's representative/contractor Kevin Larson.

MS/P Pehling/LaPorte to approve the application for the expansion of the non-conforming residence located upon PID #38-035-2304 based upon the criteria of Sections 800 and 1126.1 B. of the Land Use Ordinance and MS 394.27 Subdivision 7 with the following findings and conditions:

Findings:

1. The property became of record in 1981.
2. There is no record of original construction in the permit archive although there is a permit for an addition from 1987 to a former owner.



3. The proposed residence expansion will not reduce the existing lake setback and will be mostly unobservable from the lake and neighboring residences.
4. Based upon the location, size and configuration of the proposed residence expansion, there is no evidence or indication that they will have a negative effect on neighboring property or lake users.
5. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
6. Approval of the application assuming compliance with applicable erosion control 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.
7. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
8. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
9. Based upon the above findings and the following conditions associated with this approval, there is nothing to indicate that the proposed residence/deck will alter, disturb or negatively impact existing land use or neighboring property which 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.

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.

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 as required by ESD.

Conditions:

1. The additions shall be of size and configuration as submitted with the application 07/13/17.

2. Any revision to the site plan submitted 07/13/17 shall be approved by ESD or if necessary the Planning Commission.
3. No run-off to the lake or adjoining properties is permitted. 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. ESD staff must determine and if required construction erosion control shall be installed.
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. 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.
9. 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 prior to the issuance of any permit.
10. If financial assurance is required, ESD shall determine a schedule to return and/or reduce the amount of financial assurance.
11. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 08/14/19.

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.

Nylin, Joe & Peggy, Sylvan Township on property described as Lot 5, Block 4, "Sylvan Shady Shores", Section 2-133-30, PID #41-562-0425 located at 12114 W Sylvan Drive. An application submitted to replace an existing non-conforming residence located 59 feet from the lake with new construction of a two level residence/deck/garage to be located 69 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 .2 acre riparian to Sylvan Lake (GD).

Consideration of this application was tabled during the 07/17/17 meeting in order for the applicants a more detailed storm water run-off control plan and to consider garage placement options. PC members were at the site 07/11/17 and 08/08/17. 55 notices of the application were mailed for both meetings. One response from Sylvan Township was received for each meeting recommending approval of the application were received. The application was reviewed and discussed with Joe and Peggy Nylin.

MS/P Moore/Kostial to approve the application for new residential construction at PID #41-562-0425 based upon the criteria of Sections 800 and 1126.1 B. of the Land Use Ordinance and MS 394.27 Subdivision 7 with the following findings and conditions:

Findings:

1. The property was platted in 1946 prior to the adoption of lot size criteria.
2. The lot contains .2 acre and measures only 167 feet from lake to platted roadway which severely limits placement options.
3. The new residence will be 10 further away from the lake than existing structure.
4. There is nothing to indicate that the application is solely financially based.
5. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
6. 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.
7. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
8. Based upon the above findings and the following conditions associated with this approval, there is nothing to indicate that the storage structure has altered, disturbed or negatively impacted land use or neighboring property which 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.

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.

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 as required by ESD.

Conditions:

1. The size, configuration and location of the residence shall not vary from that submitted 06/28/17.
2. Any revision to the site plan submitted shall be approved by ESD or if necessary the Planning Commission.
3. No run-off to the lake or adjoining properties is permitted. 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. The storm water run-off plan dated 07/24/17 is adopted as submitted for implementation.
5. ESD staff must determine and if required, construction erosion control shall be installed.
6. Any material resulting from demolition and construction not reused or recycled must be disposed of in a permitted facility.
7. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
8. Applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
9. 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.
10. 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 prior to the issuance of any permit.
11. If financial assurance is required, ESD shall determine a schedule to return and/or reduce the amount of financial assurance.
12. The applicants shall submit an "as built" site plan to ESD upon completion of the residence, landscaping and related run-off control system.
13. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 08/14/19.

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.

Pollock, Codee & Barnett, Alexis, Sylvan Township on property described as S $\frac{1}{2}$  of S $\frac{1}{2}$  of NE $\frac{1}{4}$  of NE $\frac{1}{4}$ , Section 9-133-30, PID #41-209-1101 located along Pillsbury Forest Road SW. An application submitted to be allowed to exceed the four lot split limit for one lot as of 08/15/02. The applicable portion of the Land Use Ordinance is Section 800 which establishes variance criteria and Article 3.03 of the Subdivision and Platting Ordinance which establishes the four lot limit. The property contains 10.33 (RR-2.5).

22 notices of the application were mailed. Two responses including a petition with 11 responses objecting to the application based upon lot size were received. The application was reviewed and discussed with Alexis Barnett.

MS/P Moore/Froehlig to approve the application as submitted for PID #41-209-1101 based upon the criteria of Section 800 of the Land Use Ordinance, Article 3.03 of the Subdivision and Platting Ordinance and MS 394.27 Subdivision 7 with the following findings:

Findings:

1. The property has been recorded and has been deemed non-compliant due to exceeding the four lot limit by certificate of survey.
2. The lot was created and recorded by the former owner.
3. The lot is classified RR-2.5 and contains 10.33 acres.
4. There is nothing to indicate that the lot, if approved as conforming, 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.
5. The 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.
6. 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.
7. 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.

Consideration of this application was tabled during the 06/12/17 meeting in order for the applicants to determine the level of the water table and to consider run-off control and structure height options. 40 notices of the application were mailed for the 06/12/17 and 07/17/17 meeting with one response supporting approval of the application received. The application was reviewed and discussed with Roberta and Larry Raub along with their contractor Bruce Beckley.

Richards, Nancy, McKinley Township on property described as Govt Lot 1, Section 35-138-32, PID #25-035-2200 located at 2011 State #64 SW. An application submitted to replace the existing non-conforming residence, located less than 150 feet from Spot Lake, with new larger construction. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1115.3 which establishes non-conforming structure expansion criteria and Section 1126.1 A. which requires structures to be located 150 feet from a lake classified Natural Environment (NE). The property contains 30 acres riparian to Spot Lake (NE).

PC members were at the site 08/08/17. 17 notices of the application were mailed with no response received. The application was reviewed and discussed with Rod and Nancy Richards.

MS/P Moore/Kostial to approve the variance to lake setback for the residence to be located at PID #25-035-2200 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 property became of record in 1986 and contains 30 acres.
2. There is no record of the original construction of the residence in the permit archive.
3. The existing residence, to be removed, is 100 feet from the lake.
4. The applicant intends to utilize the existing foundation as part of the new construction.
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 will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
8. Based upon the above findings and following conditions associated with this approval, there is nothing to indicate that the proposed residence will alter, disturb or negatively impact land use or neighboring property which 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.

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.

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 as required by ESD.

Conditions:

1. The additions shall be of size and configuration as submitted with the application 07/18/17.
2. Any revision to the site plan submitted 07/18/17 shall be approved by ESD or if necessary the Planning Commission.
3. No run-off to the lake or adjoining properties is permitted. 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. ESD staff must determine and if required construction erosion control shall be installed.
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. 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.
9. 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 prior to the issuance of any permit.
10. If financial assurance is required, ESD shall determine a schedule to return and/or reduce the amount of financial assurance.
11. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 08/14/19.

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.

Smith, David, Unorganized on property described as Lot 1, Block 1, "Rogers Peninsula", Section 31-142-29, PID #73-421-0110 located at 7309 Rogers Point Road NW. An application submitted, "after the fact" to be allowed to retain existing guest quarters living area containing 796 square feet located on the upper level of an accessory structure. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1126.5 which requires guest quarters living area within the Shoreland Area (.25 mile) not to exceed 700 square feet. The property contains .95 acre riparian to Leech Lake (GD).

PC members were at the site 08/07/17. 27 notices of the application were mailed with one response received. The application was reviewed and discussed with David and Donna Smith.

MS/P Moore/Froehlig to allow the current guest quarters square footage to remain at 796 square feet in structure located at PID #73-421-0110 upon review of the criteria contained in Sections 800 and 1126.5 of the Land Use Ordinance along with along with M.S. 394.27, Subd. 7 and the "Stadsvold Decision" with the following findings and conditions:

Findings:

1. The property was platted in 1982 and contains .95 acre.
2. The accessory structure/garage was constructed with ZP11-142-29-1.
3. ZP11-142-29-1 indicates height to peak of 22 feet with no mention of living area.
4. The height to peak has been confirmed as 28 feet.
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. There is no evidence or complaints since 2011 that the structure has altered, disturbed or negatively impacted the neighborhood.
8. There is nothing to indicate that the structure is detrimental to the protection of ground and surface water quality.
9. Based upon the above findings, the "Stadsvold" findings and the following conditions associated with this approval, there is nothing to indicate that the accessory structure garage/guest quarters has altered, disturbed or negatively impacted land use or neighboring property which 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.

"Stadsvold" - After the Fact Findings:

1. There is nothing to indicate or anyway to determine that the applicant or the contractor did not act in good faith when construction took place.
2. There is nothing to indicate or anyway to determine if the applicant or the contractor inquired as to permit requirements.
3. Construction was completed in 2011.
4. There are similar structures throughout the county.
5. The degree of impact to the area and the land use system although not insignificant and the County's benefits by denying a variance to the land use standards are 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.



#### Conditions:

1. Any applicable administrative fees as determined by ESD must be obtained by 09/30/17.
2. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
3. Applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
4. 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.
5. 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.
6. If financial assurance is required, ESD shall determine a schedule to return and/or reduce the amount of financial assurance.

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.

Troseth, Kevin, Fairview Township on property described as Lot 8, Block 1, "Pillsbury Forest Addition", Section 15-134-30, PID #14-384-0180 located at 3319 Long Lake Drive SW. An application submitted to expand the existing non-conforming 28 feet x 32 feet accessory/garage structure located 70 feet from the lake with upper level living quarters. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1115.3 which establishes non-conforming structure expansion criteria and Section 1126.1 A. & B. which require structures to be located 150 feet from a lake classified Natural Environment (NE) and 20 feet from the right-of-way of a public and/or platted roadway. The property contains .8 acre riparian to Long Lake (NE).

PC members were at the site 07/11/17. 13 notices of the application were mailed with two responses received.

MS/P Kostial/LaPorte to table consideration of the application until the 09/11/17 meeting in order for the applicant or representative to be present.

#### Conditional Use Permit

Illes, Melodee, Meadowbrook Township on property described as Lots 5 Thru 10, Block 4, "Wilderness Park Estates, 4<sup>th</sup> Addition"1, Section 11-135-31, PID #26-344-0425 located along Poplar Drive SW. An application submitted to establish a Family RV Campground consisting of 5 existing RVs and a 30 feet x 63 feet accessory/storage structure which are utilized for family purposes and not available to the public. A Family Campground is defined as, "Two or more residential structures and associated accessory structures on the same lot used and managed

jointly by members of a family". The applicable portions of the Land Use Ordinance include Section 705 which establishes the CUP criteria and Section 1121 which establishes Family/Private Campground criteria. The property contains 6.8 acres (RR-2.5).

PC members were at the site 08/08/17. More than 125 notices of the application were mailed. Four responses objecting to approval of the application were received. In addition, several persons appeared during the hearing to express their dismay and opposition to approval of the application. The application was reviewed and discussed with various family members who utilize the site.

MS/P LaPorte/Fitch to approve the Family RV Campground as established upon PID #26-344--0425 upon review of the criteria contained in Sections 705 and 1121 of the Land Use Ordinance along with M.S. 394.301 with the following findings and conditions:

Findings:

1. The RV's and structure are in place and utilized by family members with no noted trauma to the neighborhood.
2. The property contains 6.8 acres and the number of RV's and accessory structure/storage complies with Section 1121.
3. There is nothing to indicate that the existing use has been detrimental to neighboring residential 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.
4. The surrounding area consists of residential type development to which there is no reason or evidence to conclude that area land use has been negatively affected or will be negatively affected or altered by the on-going activity.
5. The on-going activity has had no impact to the demand for governmental services.
6. No wetland has been disturbed.
7. No scenic or historic features have been affected by the on-going land use.
8. There is no evidence to indicate to expect that the use has or will pose a threat to public health, safety and welfare.
9. The structures are not visible from the lake.

Conditions:

1. The depth of the existing vegetative/tree buffer along Poplar Drive SW must be maintained
2. All runoff must be contained on-site.
3. Any request to revise the CUP to exceed more than 5 RV sites shall not be considered.

4. There shall be no availability for rent or occupancy to the public.
5. The storm damaged RV located on the property must be removed by 02/14/18.

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.

Pauly, Steven, Hiram Township on property described as Part of Govt Lot 6, 5-140-31, PID #16-005-4108 located at 4552 Howe Drive NW. An application submitted to place up to 400 cubic yards of earthen fill material within the Shore Impact Zone (SIZ). The SIZ is that area on a General Development (GD) lake from the ordinary high water level (OHWL) landward 75 feet. The applicable portions of the Land Use Ordinance include Section 705 which establishes the CUP criteria and Section 1106.2 which requires a CUP for the movement of more than 50 cubic yards in the SIZ. The property contains 1.95 acres riparian to Ten Mile Lake (GD).

PC members were at the site 08/08/17. 33 notices of the application were mailed with no responses received. The application was reviewed and discussed with Mr. Pauly.

MS/P Moore/Kostial to deny the application for earthen fill material to be placed within the Shore Impact Zone upon PID #16-005-4108 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:

Findings:

1. The property is 135 feet wide and measures 609 feet from lake to back property line.
2. The property has suitable area for placement of structures and SSTS.
3. There is no evidence that the proposed amount of fill proposed for the Shore Impact Zone will enhance or improve or address a situation that impedes access to the lake or otherwise restricts use of the property.
4. There is no detail provided as to how 2.5 feet of fill will be stabilized so as to prevent erosion and sluffing into the adjacent wetland.
5. There is nothing to indicate or establish that 400 cubic yards of earthen material will not have a detrimental impact to the lake and land which therefore does 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. Based upon the above findings, the application fails to satisfy the CUP criteria of the Land Use Ordinance.

## Reclassification

Bryant, Bruce, Wilson Township on property described as SE NE Excluding North 82.5 Feet Thereof, Section 33-137-29, PID #50-033-1400 located at 4499 12<sup>th</sup> Avenue SW. Application submitted to reclassify from Agriculture/Forestry (AF) to Rural Residential - 10 (RR-10). The applicable sections of the Land Use Ordinance include Section 706 which establishes reclassification procedures and Section 903 which establishes the land use district descriptions. The property contains 37.82 acres (AF).

21 notices of the application were mailed no responses received. The application was reviewed and discussed with Bruce and Linda Bryant.

MS/P Froehlig/Kostial to approve the reclassification as submitted for PID #50-033-1400 upon review of the criteria contained in Sections 705, 706, 903 and 1000 of the Land Use Ordinance along with M.S. 394.301 with the following findings and condition:

### Findings:

1. The purpose of the RR-5, RR-10 and RR-20 districts is to promote low density rural development in those portions of the County outside of the shoreland zone and beyond those areas of anticipated municipal growth where less development is desired and most suitable.
2. These zones will be created as reclassifications where the Planning Commission determines that larger lot sizes are required to protect agricultural areas or critical habitats or preserve the rural nature of an area.
3. The proposed configuration will contain the existing residence with potentially two additional lots.
4. There is nothing to indicate that the proposed lots and subsequent single family ownership will have any 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. The surrounding area along 12<sup>th</sup> Avenue SW contains numerous single-family occupied parcels to which there is no reason or evidence to conclude that area land use will be negatively affected or altered by the reclassification.
6. Approval will have no impact to the demand for governmental services.
7. Existing roadways will be utilized with no need to expand exiting public infrastructure.
8. No wetland or critical habitat will be disturbed.
9. No scenic or historic features will be affected.
10. No threat to public health, safety and welfare can be expected.

Condition:

1. This approval is a recommendation to approve the reclassification to the County Board for final determination.
2. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 08/14/19.

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.

Johnson, Robert W, Shingobee Township on property described as Part of NE SE, Section 29-142-31, PID #38-129-4101 & Part of NE SE, Section 29-142-31, PID #38-129-4105 located at 7701 County 12 NW. Application submitted to reclassify from Rural Residential - 2.5 (RR-2.5) to Rural Residential - 1 (RR-1). The applicable sections of the Land Use Ordinance include Section 706 which establishes reclassification procedures and Section 903 which establishes the land use district descriptions. The combined parcels contain 6.02 acres (RR-2.5).

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

MS/P Kostial/Fitch to approve the reclassification and lot configuration as submitted for PID #38-129-4101 upon review of the criteria contained in Sections 705, 706, 903, and 1000 of the Land Use Ordinance along with M.S. 394.301 with the following findings and conditions:

Findings:

1. The purpose of the RR-1 is to enable area to be developed with higher residential densities while also avoiding and preserving unsuitable terrain and soils.
2. The proposed configuration will contain the existing residence with potentially three additional lots.
3. There is nothing to indicate that the proposed lots and subsequent single family ownership will have any 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.
4. The surrounding area is along County # 12 contains numerous single family occupied parcels to which there is no reason or evidence to conclude that area land use will be negatively affected or altered by the reclassification.

5. Approval will have no impact to the demand for governmental services.
6. Existing roadways will be utilized with no need to expand exiting public infrastructure.
7. No wetland or critical habitat will be disturbed.
8. No scenic or historic features will be affected.
9. No threat to public health, safety and welfare can be expected.

#### Conditions

1. This approval is a recommendation to approve the reclassification to the County Board for final determination.
2. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 08/14/19.

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.

#### Other Business

\* Request received from Christine Moore to review the motion to approve VP16-141-31-3 approved 01/09/17 for William & Bonnielyn Witt.

MS/P Kostial/Moore to revise VP16-141-31-5 that the approval shall allow for one walk-out foundation upon the steep slopes of:

1. Lot 1, Block 1, "Witt's Forest Pines", PID #38-453-0110 owned By Kenneth & Monica Katzenberger.
2. Lot 3, Block 1 & Lot 4, Block 1, "Witt's Forest Pines", PID #38-453-0130 & PID #38-453-0140 on the lot as determined by the owners Craig & Christine Moore.
3. Lot 2, Block 1, Lot 7, Block 1 and Lot 8, Block 1, "Witt's Forest Pines", PID #38-453-0120, PID #38-453-0170 & PID #38-453-0180 on the lot as determined by the owners William J & Bonnielyn Witt.
4. If the owners of multiple lots wish to change the variance approval from one lot to another prior to the expiration of the variance and prior to issuance of a land use permit, they may do so presuming compliance with applicable setback requirements.
5. The current or future owners of those lots within in the plat not receiving a variance under revised VP16-141-31-5 may submit new applications for variance for such lots which will be considered on their merits by the Planning Commission.

\* Request received from Bruce Wenner to review VP16-141-31-1 which was approved 11/14/16.

MS/P Moore/Pehling to accept "as-built" revision to footprint and dimensions as submitted by Mr. Wenner and that Mr. Wenner shall comply with conditions as adopted by the approval of

VP16-141-31-1 4 that the side walls shall not exceed 8 feet high, that the height to peak shall not exceed 20 feet high and that approval does not include a second floor.

MS/P Froehlig/Kostial at 4:26 PM, to adjourn.

P. Fairbanks