



Cass County  
Planning Commission/Board of Adjustment

July 17, 2017

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting July 17, 2017 in the meeting room of the Cass County Land Department in Backus. The field inspection for the meeting was conducted July 10, 2017 with PC members Fitch, Kostial, Moore, LaPorte, Pehling and Sundberg along with ESD staff Berg and Fairbanks in attendance and July 11, 2017 with PC members Fitch, Kostial, Pehling and Sundberg along with ESD staff Berg and Fairbanks in attendance.

Sundberg called the meeting to order at 9:56 a.m.

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

Staff Present: Berg, Fairbanks and Ringle.

Citizens Present: Bob Adelman, Steve Anderson, Jeff Benusa, Paula Benusa, Mark Bird, Robert Chavez, Tom Dechmann, Catherine Dietrich, William Dietrich, Dan Hawley, Bill Hendricks, James Hennesy, Susan Hennesy, Leeann Herheim, Darren Hoverson, Chuck Hanson, Reva Hanson, Darren Hoverson, Gary Ingvalson, Jeremy Johnston, Virginia Knudson, Jane Lawrenz, David Mastell, Gwen Mastell, Christine Moore, Megan Morgan, Joe Nylin, Peggy Nylin, Mike Orth, Margy Peterson, Larry Raub, Roberta Raub, Diane Schires, Justin Smith, John Thomas, Myles Wagner, Andrew Wheeler, Clinton Wheeler, Rebecca Wheeler, Bill Witt, Joe Witt and Marla Yoho.

MS/P Pehling/Kostial to approve the minutes of the 06/12/17 PC/BOA meeting.

Variance

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 top of a bluff, a 30 feet x 50 feet accessory/pole barn structure to be located at the top of a bluff and to place 50 cubic yards of fill material within 30 feet of the toe of a bluff. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1106 which regulates land alteration, grading and filling with the lake and bluff areas, 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).

PC members were at the site 006/06/17. 22 notices of the application were mailed with 5 responses of objection received. The application was reviewed and discussed with Mr. and Mrs. Hennsey.

MS/P Fitch/Kostial to table consideration of the application until the 08/14/7 meeting with the following findings:

Findings:

1. Because of the proposed construction to be located within the bluff, a more detailed site plan should be submitted.
2. The detailed site plan should include estimated cubic yards of fill, where the fill material will be placed, construction and post-construction erosion control and slope stabilization to be utilized and lake facing and side elevations of the proposed structure.
3. The applicants shall consider placement options for the proposed accessory structure.

Lawrenz, Jane, Fairview Township on property described as Lot 7, Block 1, "Rockwood Acres", Section 9-134-30, PID #14-380-0135 located at 10335 Forest Lane SW. An application submitted to expand an existing non-conforming residence located 53 feet from the lake with a 12 feet x 18 feet addition to the side of the residence to be located 53 feet from the lake. The proposed addition is intended to replace a storm damaged 10 feet x 21 feet porch located lakeside on the residence 43 feet from the lake. 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 .63 acres riparian to Rock Lake (RD).

PC members were at the site 07/11/17. 29 notices of the application were mailed with one response from Fairview Township recommending approval was received. The application was reviewed and discussed with Ms. Lawrenz.

MS/P Kostial/Froehlig to approve the application to expand the non-conforming residence located at PID #14-380-0135 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 and the original construction occurred in 1969 prior to the adoption of land use regulation.

2. The proposed porch addition will not be closer to the lake than the setback of the residence.
3. The applicant proposes to remove the existing lakeside deck.
4. Based upon the location and configuration of the proposed porch, there is no evidence or indication that it will have a negative effect on neighboring property or lake users.
5. Approval of the application 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 of the application 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 porch 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 porch shall not exceed 12 feet x 18 feet and not be less than 53 feet from the lake.
2. As proposed by the applicant, the lakeside deck will be replaced be with a patio.

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 size and height of the porch shall not vary from that submitted 06/20/17 unless approved by ESD staff or if necessary the Planning Commission.
5. ESD staff must determine and if required, the applicant shall install approved construction erosion control.
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. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 07/17/19.

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.

Morgan, Jamie & Megan, Loon Lake Township on property described as All That Part of Lot 3 Lying E of Line A Drawn Parallel With & 350 Feet E As Measured At Right Angles To the W Line There of Block 1, "Miller Shores" Section 16-136-29, PID #22-385-0130 located at 5632 Daffodil Lane SW. An application submitted to construct a 24 feet x 24 feet, 576 square feet accessory/storage structure which will cause the property to exceed the maximum square footage of accessory allowed by lot size. The property is riparian and contains .85 acre to which a maximum of 1200 square feet to total accessory structure is allowed. The property currently contains an 832 square feet garage/accessory structure and an 8 feet x 8 feet, 64 square feet, accessory/storage structure which will be removed. The proposed structure containing 576 square feet would bring the total square feet to 1,344 square feet which would exceed the maximum allowed by 144 square feet. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1101 which establishes the accessory structure size criteria. The property contains .85 acre riparian to Sibley Lake (GD).

PC members were at the site 07/11/17. 41 notices of the application were mailed with no responses received. The application was reviewed and discussed with Mr. Morgan and Mr. Freeman.

MS/P Moore/Kostial to approve the application for variance to exceed the maximum accessory structure square footage allowed per lot size for PID #22-385-0130 based upon review of the criteria contained in Sections 800 and 1101 of the Land Use Ordinance along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. The property became of record in 1983 prior to the adoption of the regulation of accessory structure size.
2. The proposed accessory structure will be more than 200 feet from and not visible from the lake.
3. The amount in excess of maximum allowed, 144 square feet, will have no effect on the lake or neighboring property.
4. Approval of the application 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 of the application 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 residence 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. 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.
2. The size, height and location of the structure shall not vary from that submitted 06/23/17 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 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. 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.
8. 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.
9. If financial assurance is required, ESD shall determine a schedule to return and/or reduce the amount of financial assurance.
10. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 07/17/19.

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).

PC members were at the site 07/11/17. 55 notices of the application were mailed with one response from Sylvan Township was received. The application was reviewed and discussed with Joe and Peggy Nylin along with a representative of Northland Construction.

MS/P Moore//Fitch to table consideration of the application until the 08/14 meeting in order for the applicants to discuss with their contractor setback, structure configuration, run-off and impervious surface options for their property.

Parker, Jerry & Carolyn, Boy Lake Township on property described as Part of Govt Lot 2, Section 13-142-28, PID #07-013-1313 located at 2277 Cabin Camp Trail NE. An application submitted, after the fact, to be allowed to retain an existing 20 feet x 20 feet accessory/storage structure which is located at less than the required right-of-way setback from the easement for Cabin Camp Trail NE. 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 right-of-way of a road easement. The property contains .7 acre riparian to Boy Lake (GD).

PC members were at the site 07/10/17. 23 notices of the application were mailed with two responses both supporting approval of the application received. The application was reviewed and discussed with Carolyn and Jerry Parker.

MS/P Kostial/Pehling to approve, "after the fact" the existing location of the accessory structure located at PID #07-013-1313 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, Subdivision 7 and the "Stadsvold" decision criteria with the following findings and conditions:

Findings:

1. The lot became of record in 2008 and contains .7 acre.
2. The structure was assembled and placed in 2011 sans permit.
3. Although the structure is within the right-of-way setback area, there is no indication that the area has been negatively impacted by erosion or vegetative removal.
4. Cabin Trail is occasionally traveled, is minimally maintained and provides access to only one more lot beyond this location which the structure does compromise access.
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 visual evidence that the right-of-way setback encroachment has altered, disturbed or negatively impacted the neighborhood.

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

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

10. Based upon the above findings, the "Stadsvold" 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.

"Stadsvold" - After the Fact Findings:

1. There is nothing to indicate or anyway to determine that the applicants did not act in good faith when the assembly and placement took place.

2. There is nothing to indicate or anyway to determine if the applicant inquired as to permit requirements.

3. Assembly and placement has been completed.

4. There are similar structures throughout the county.

5. 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.

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.

Raub, Larry & Roberta, Shingobee Township on property described as Part of Govt Lot 4 & NE SW, Section 25-141-31, PID #38-025-3405 located at 5359 Ten Mile Lane NW. An application submitted to remove the existing residence and replace with new 31 feet x 32 feet two story construction 20 feet from the lake and 10 feet from the right-of-way of Ten Mile Lane. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1126.1 A. & B. which require structures to be located 75 feet from a lake classified General Development (GD) and 10 feet from the right-of-way of a public and/or platted roadway. Consideration of this application was tabled during the 06/12/17 meeting in order for depth to water table and setback from Ten Mile Lane to be verified. The property contains .73 acre riparian to Ten Mile Lake (GD).

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.

MS/P Moore/Fitch to approve the application for a residential structure to replace the existing residence at PID #38-025-3405 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 property became of record in 1965 prior to the adoption of land use regulation.
2. The property is bisected by Ten Mile Lane which terminates near this property resulting in no through traffic.
3. County Highway has verified the right-of-way given to Shingobee Township as 33 feet as measured  $16\frac{1}{2}$  feet from the centerline of Ten Mile Lane
4. The depth of the lot from the lake to the right-of-way is 60 feet.
5. The depth of the lot from the lake to the driving surface is 76 feet.
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 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 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. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
10. The maintenance and plowing of Ten Mile Lane by Shingobee Township will not be affected by the location of the residential structure.
11. Based upon the above findings and the following conditions associated with this approval, there is nothing to indicate that the proposed residence 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. 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.
2. The residence shall not be less than 20 feet from the lake and not less than 10 feet from the right-of-way of Ten Mile Lane.
3. The residence shall not exceed 24 feet from ground to peak and footprint not to exceed 31 feet x 32 feet.
4. ESD staff shall verify the lake setback and the setback from Ten Mile Lane right-of-way prior to permit approval and the commencement of construction.
5. ESD staff must determine and if required, the applicant shall install approved construction erosion control.

- 6 The applicant must the asphalt parking area adjacent to the residence and replace with vegetation or a rain garden.
7. Any material resulting from construction not reused or recycled must be disposed of in a permitted facility.
8. Applicants shall consent to inspection of the property by ESD staff to verify compliance with conditions.
9. Applicants shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
10. 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.
11. 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.
12. If financial assurance is required, ESD shall determine a schedule to return and/or reduce the amount of financial assurance.
13. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 07/17/19.

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.

Thomas, John, Kevin, Fairview Township on property described as Lot 10, "Birch Bay on Agate", Section 5-134-29, PID #14-357-0100 located at 1676 S Agate Shore Drive SW. An application submitted to be allowed to place lakeside end of property line fence at 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 Recreational Development (RD). The property contains .39 acre riparian to Agate Lake (RD).

PC members were at the site 07/11/17. 31 notices of the application were mailed with two responses, including that of Fairview Township, endorsing approval of the application were received. The application was reviewed and discussed with Mr. Thomas.

MS/P Moore/Kostial to approve the variance of the lake setback of the fence to be located at PID #14-357-0100 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 was platted in 1958 prior to the adoption of minimum lot requirements.

2. Lot 10 contains .39 acre and measures from 90.8 feet to 120.5 feet from the lake to S. Agate Shore Drive and 10 feet from lake setback to right-of-way setback.
3. There is nothing in the permit record as to the original construction of the residence.
4. An attached garage was allowed by permit, not variance, in 1992.
5. Based upon the proposed use, boundary fence, the size and proposed location is reasonable.
6. The proposed fence and location will allow some separation and privacy from the directly adjacent RV Park.
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 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.
11. Based upon the above findings and the following conditions associated with this approval, there is nothing to indicate that the proposed fence 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.
12. The adjacent property owners have indicated their intention to remove their partially constructed fence.

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 required by ESD.

Conditions:

1. The lake end of the fence shall be no closer than 65 feet from the lake.
2. Applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
3. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
4. Applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
5. 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.
6. 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.
7. If financial assurance is required, ESD shall determine a schedule to return and/or reduce the amount of financial assurance.
8. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 07/17/19.

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.

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, including that of the Fairview Township, received.

MS/P Moore/Froehlig to table consideration of the application until the 08/14/17 meeting in order for the applicant or representative to be present.

Conditional Use Permit/Reclassification

Berg, Carl & DeMars, Gerald, Leech Lake Township on property described as Govt Lot 2, Section 30-143-31, PID #20-030-2400 located at 10216 72<sup>nd</sup> Avenue NW. Application submitted to

reclassify 2.5 acres of the property from Rural Residential - 5 (RR-5) to Rural Residential - 2.5 (RR-2.5) which requires approval by conditional use permit (CUP). The applicable sections of the Land Use Ordinance include Section 705 which establishes CUP standards, Section 706 which establishes reclassification procedures and Sections 903 and 1000 which establish land use district standards. The property contains 55.14 acres (RR-5).

17 notices of the application were mailed with no responses received. The application was reviewed and discussed with Mr. Berg and Mr. DeMars.

MS/P LaPorte/Froehlig to approve the reclassification and lot configuration as submitted for upon PID #20-0303-2400 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-2.5 is to promote low-density development in those portions of the County outside the Shoreland Zone and beyond areas of anticipated municipal growth where such development is desired and most suitable.
2. The proposed configuration will contain the existing residence and two detached accessory structures.
3. The reclassification and new lot will have no effect to the natural landscape and vegetation.
4. The area will remain rural, the reclassification and new lot will have no effect to the area's ownership or development
5. Soil type and engineering capabilities have no bearing in this application.
6. The property is non-riparian therefore no water related characteristics, values, constraints or recreational use of surface water issues to consider.
7. There is nothing to indicate that the proposed lot 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.
8. The surrounding area is undeveloped with occasional 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.
9. Approval will have no impact to the demand for governmental services.
10. Existing roadways will be utilized with no need to expand exiting public infrastructure.
11. No wetland or critical habitat will be disturbed.
12. No scenic or historic features will be affected.
13. No threat to public health, safety and welfare can be expected.

Conditions:

1. The configuration and size of the new parcel shall not vary unless approved by the Planning Commission.
2. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until recorded.

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 Lake Township on property described as Part of NE NE, Section 29-142-31, PID #38-129-4101 & Part of NW 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) which requires approval by conditional use permit (CUP). The applicable sections of the Land Use Ordinance include Section 705 which establishes CUP standards and Sections 903 and 1000 which establish land use district standards. The combined parcels contain 6.02 acres (RR-2.5).

37 notices of the application were mailed with one response from the Cass County Highway Department as to distance apart from driveway approaches to County #12 was received.

MS/P Moore/LaPorte to table consider of the application until the 08/14/17 meeting in order for the applicant or a representative to be present.

Orth, Michael, Pine River Township on property described as E $\frac{1}{2}$  NE NW, Section 28-138-30, PID #31-028-2101 located at 3863 16<sup>th</sup> Street SW. Application submitted to reclassify the 20.21 acres of the property from Agriculture/Forestry (AF) to Rural Residential - 5 (RR-5) which requires approval by conditional use permit (CUP). The applicable sections of the Land Use Ordinance include Section 705 which establishes CUP standards and Sections 903 and 1000 which establish land use districts standards. The property contains 20.21 acres (AF).

28 notices of the application were mailed with one response received. The application was reviewed and discussed with Mr. Orth.

MS/P Fitch/Moore to approve the reclassification and lot configuration as submitted for PID #31-028-2101 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 these districts, RR-5, RR-10 & RR-20, is to promote low-density rural development in those portions of the County outside the Shoreland Zone and beyond the area of anticipated municipal growth where such development and most suitable. 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 the area.
2. The reclassification and new lot will have no effect to the natural landscape and vegetation.
3. The area will remain rural, the reclassification and new lot will have no effect to the area's ownership or development
4. Soil type and engineering capabilities have no bearing in this application.
5. The property is non-riparian therefore no water related characteristics, values, constraints or recreational use of surface water issues to consider.
6. 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.
7. The surrounding area to the north is RR-2.5 and contains 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.
8. Approval will have no impact to the demand for governmental services.
9. Existing roadways will be utilized with no need to expand exiting public infrastructure.
10. No wetland or critical habitat will be disturbed.
11. No scenic or historic features will be affected.
12. No threat to public health, safety and welfare can be expected.

## Conditions

1. The eventual configuration of the existing parcel shall be approved by ESD or if necessary the Planning Commission prior to recording.
2. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until recorded.

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, Michael F, Wilson Township on property described as E130 Feet of W250 Feet of NW NW, Section 5-137-29, PID #50-005-2204 & Part of NW NW, Section 5-137-29, PID #50-005-2212 located at 1945 24<sup>th</sup> Street SW. Application submitted to reclassify the property from Shoreland Residential/Rural Residential-1 (SR/RR-1) to Commercial-1 (C-1) which requires approval by conditional use permit (CUP). The applicable sections of the Land Use Ordinance include Section 705 which establishes CUP standards and Sections 903 and 1000 which establish land use districts standards. The combined parcels contain 4.98 acres (SR & RR-1).

10 notices of the application were mailed. Three responses, including two opposed to approval, were received. The application was reviewed and discussed with Mr. Smith.

MS/P Moore/Fitch to approve the reclassification as submitted for PID #50-005-2204 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 property is currently occupied by a 30 feet x 98 feet structure utilized for rental storage.
2. The owner intends to add another structure, 20 feet x 144 feet, to be utilized for rental storage.
3. The parcels are from 200 feet to 300 feet from the corporate limits of the City of Pine River.
4. The purpose of C-1 is to provide adequate areas for general retail, wholesale, office and service activities located as permitted uses in the growth and development areas adjacent to incorporated municipalities. C-1 commercial districts shall be located along federal state or county highways and shall include all of parcels so designated.
5. There is nothing to indicate that the existing use of the current structure has had or that an additional structure will have a detrimental effect 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.
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.

## Conditions

1. Any change of the current indoor storage use must be approved by the Planning Commission.
2. There shall be no outdoor storage.
3. The dilapidated mobile homes shall be removed from the site prior to ESD permit approval for new construction.
4. Verification of the final disposition of the mobile home shall be provided to ESD prior to permit approval for new construction.
5. The existing dilapidated 16 feet x 22 feet structured shall be re-habilitated or removed prior to ESD permit approval for new construction.
6. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 07/17/19.

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

Walters, Thomas, Pine River Township on property described as NE NW & East 3 Rods of NW NW, Section 25-138-30, PID #31-025-2100 located at 2677 16<sup>th</sup> Street SW. An application submitted to establish a home business/power equipment repair in one of the structures located on the property. A home business, which requires a conditional use permit (CUP), is a business/commercial activity which takes place on-site outside or within a separate building than the owner/proprietor occupied residence. The applicable sections of the Land Use Ordinance include Section 705 which establishes CUP standards and Section 1110 which establishes the Home Business criteria. The property contains 42.6 acres (RR-1).

68 notices of the application were mailed with no responses received. The application was reviewed and discussed with Mr. Walters.

MS/P LaPorte/Froehlig to approve the home business as submitted at PID #31-025-2100 upon review of the criteria contained in Sections 705 and 1110 of the Land Use Ordinance along with M.S. 394.301 with the following findings and conditions:

### Findings:

1. The applicant will convert the clubhouse to a residence with existing out buildings utilized for the business activity.
2. Service for waste oil and similar fluids has been established.
3. There is no indication that the proposed home business will caused any adverse effect to adjoining property.
4. The home business has no effect to the demand for governmental services.

5. Existing infrastructure will be utilized with no need to expand exiting public infrastructure.
6. No wetland or critical habitat will be disturbed.
7. No scenic or historic features will be affected.
8. No threat to public health, safety and welfare has occurred or can be expected from the home business activity.

Conditions:

1. Any temporary outdoor storage shall be contained along the tree line west of the structures in an orderly manner and if necessary determined by ESD.
2. Any expansion of services offered shall be approved by the Planning Commission.

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 and possibly amend the motion to approve VP16-141-31-3 approved 01/09/17 for William & Bonnielyn Witt. The members listened to the part of the recording of the VP16-141-31-1 portion of the 01/09/17 meeting and discussed the intention of the motion to approve. It was agreed to take up consideration again during the 08/14/17 meeting.

Conditional Use Permit

Wheeler, Andrew & Rebecca, Woodrow Township on property described as Part of E $\frac{1}{2}$  of SW, Section 15-140-29, PID #51-015-3109 located along 1081 County 5 NW. Application submitted to be allowed a variance from the number of RV sites allowed based upon lot size and lake classification, 7 RV sites, with 20 RV sites and to acquire a conditional use permit (CUP) to establish and operate a seasonal RV park facility. The applicable sections of the Land Use Ordinance include Section 705 which establishes CUP standards, Section 800 which establishes variance criteria and Section 1118 RV park criteria. The property contains 5.2 acres riparian to Little Woman/Squaw Lake (NE).

Consideration of this application was tabled during the 06/12/17 meeting at the request of the applicants. During this meeting, 07/17/17, the Chairperson stepped away from the proceedings, was replaced by the Vice-Chairperson, and did participate in the review, discussion and decision. Prior to the motion and before the conclusion of the discussion PC members Pehling and Fitch excused themselves and did not participate or vote to the motion to approve. PC members were at the site 06/05/17 and 07/10/17. 104 notices of the application were mailed for both meetings. 31 responses were received from the 06/12/17 mailing, 29 objecting to approval and 2 endorsing approval. 16 responses were received from the 07/17/17 mailing, 14 of objection

including a petition with 18 signatories and 2 responses of no objection. The applicants, Rebecca and Andrew Wheeler appeared on behalf of their application to respond to question and comments of the members as well as those in attendance conveyed through the Vice-Chairperson.

MS/P Moore/Froehlig to approve the application for an RV Park to be located at PID #51-015-3109 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 property has been occupied by commercial activity as best can be determined for decades.
2. There is no evidence or information to conclude that previous commercial activity adversely affected adjoining property.
3. An RV Park requires a conditional use permit in an area designated C-2.
4. The proposed RV park clientele will be of short term occupancy and typically will consist of seniors and families with children which will not impact the demand for local public facilities and services.
5. Based upon the current view of the property and any necessary vegetative enhancements, there is nothing to indicate that the proposed use will have detrimental visual or other impact on 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.
6. The surrounding area consists of lakeside residential development along with resorts located along County #11 and County #5. Based on the proposed location of the RV sites, there is no reason or evidence to conclude that area land use or the view from the lake will be negatively affected or altered by the location of the proposed RV Park.
7. The proposed development of the RV Park will not change the current utilization of existing public roadways and will not require expansion or reconfiguration therefore additional public infrastructure will not be required.
8. No wetland or critical habitat will be disturbed by the proposed RV Park.
9. No scenic or historic features will be affected by the proposed RV Park.
10. Based upon the anticipated RV park clientele, rules of occupancy, limited mooring and the installation new waste water treatment with operating standards no threat to public health, safety and welfare can reasonably be expected from the proposed RV Park.
11. Mooring shall to be one dock and the mooring shall not exceed 6 motorized watercraft.
12. The waste water treatment system will be designed by a MPCA Licensed Designer that will comply with applicable county and state standards which will not require public infrastructure.

13. The proposed RV park development complies with applicable ordinance standards.
14. The proposed RV Park will comply with applicable lake setback and storm water management requirements.
15. The RV's sites will be for transient use only and will not be occupied seasonally or as permanent residences or homesteaded.
16. One RV site can be occupied for a longer duration or seasonally for a site host.

Conditions:

1. The number of RV sites shall not exceed 11.
2. One RV site can be occupied for a longer duration or seasonally for a site host.
3. The typical RV site dimension and size is adopted as contained in the application document.
4. The water system shall only be operational from May 1<sup>st</sup> to October 31<sup>st</sup>.
5. The guidelines/rules for occupants are adopted as amended 07/17/17 or their after and submitted to ESD.
6. AIS information shall be provided to all RV site occupants at check-in.
7. The applicants shall submit a site screening and vegetative enhancement plan to ESD prior to the approval of any land use or waste water treatment permits with financial assurance to be determined by ESD.
8. The applicant shall submit a storm water management plan to ESD prior to the approval of any land use or waste water treatment permits.
9. The swimming and mooring area shall be as currently located with no other shore area utilized for swimming or docking.
10. There shall be no motorized boat launching to Little Woman Lake, all motorized boat launching to utilize the Minnesota Public Waters of Woman Lake and Little Woman Lake shall be to the DNR Public Access located at Woman Lake.
11. Mooring shall be to one dock and the mooring shall not exceed 6 motorized watercraft.
12. Prior to commencement of construction, ESD shall be provided with verification of issuance of an MPCA NPDES permit.
13. Boat trailer parking/storage shall be confined to each RV site or in a designated area.
14. The applicants shall consult and cooperate with the Cass County Highway as to possible traffic improvements to CSAH #11 and CSAH #5.
15. The existing vegetative/tree buffer along the south boundary shall be maintained.
16. The applicants shall obtain and comply with applicable MN Department of Health and MN Department of Labor & Industry permits and regulations and provide verification of such to ESD.
17. Signage indicating "No Trespassing" along the common property line with the neighboring property to the east and the south must be placed.
18. When not in use, non-motorized watercraft shall be stored on the south side of County #5.
19. All outdoor RV Park lighting, if present, shall be directed downward.
20. The Cass County Surveyor shall verify the density calculation results and submit said verification to ESD and the PC prior to any permission to proceed and any approval of any permit.
21. Containers shall be provided on site for municipal solid waste and recyclables.

22. All RV's utilizing the facility must be "self-contained" and capable of being connected to all park utilities of waste water, electricity and water.
23. No parking shall take place on the north side of County #5.
24. Tents and RV's without full utility connections shall not be allowed.

COMPLIANCE WITH ALL CONDITIONS IS REQUIRED. FAILURE TO COMPLY WITH ANY CONDITION SHALL RESULT IN A VIOLATION AND SUBJECT THE APPLICANT TO ENFORCEMENT PROCEDURES WHICH MAY INCLUDE, BUT NOT LIMITED TO, REVOCATION OF THIS CONDITIONAL USE PERMIT, REMOVAL OF VIOLATIONS AND MITIGATION.

MS/P Froehlig/LaPorte at 5:24 PM, to adjourn.

P. Fairbanks