



Cass County  
Planning Commission/Board of Adjustment

May 8, 2017

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting May 8, 2017 in the meeting room of the Cass County Land Department in Backus. The field inspection for the meeting was conducted May 1, 2017 with PC members Fitch, Froehlig, Kostial, LaPorte, Moore and Pehling along with ESD staff Berg and Fairbanks in attendance and May 2, 2017 with PC members Fitch, Froehlig, Kostial, La Porte, Pehling and Sundberg along with ESD staff Berg and Fairbanks in attendance.

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

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

Staff Present: Berg, Fairbanks and Ringle.

Citizens Present: Greg Ahlm, Mark Anderson, Randy Birkinbine, Dennis Brackin, Marge Brackin, Ken Erickson, Steve Hoffman, Matt Houston, Ed Key, Dennis King, Brian Lappin, Tom Lund, Dustin Mirick, Zella Mirick, David Olson, Trudi Olson, Carl Peterson, Lynn Remington, John Rowell, Mark Spitzak, Julie Swenson, Philip Swenson, Janet Thompson, Peggy Wagner, Jerry Young, and Denise Wicktor.

MS/P Pehling/Fitch to approve the minutes of the 04/10/17 PC/BOA meeting as presented.

Variance

Ahlm, Greg, Crooked Lake Township on property owned by the Roland Hron Trust described as Lot 16, "Rees Anchorage", Section 9-139-26, PID #12-392-0160 located at 1823 Peninsula Road NE. An application submitted to expand a non-conforming residence located 67 feet from the lake with a 16 feet x 16 feet addition, a loft and a 5 feet roof overhang. 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 .85 acre riparian to Lake Washburn (GD).

PC members were at the site 05/02/17. 31 notices of the application were mailed with one response advocating denial of the application was received. The application was reviewed and discussed with Mr. Ahlm.

MS/P Kostial/Froehlig to table consideration of the application until the 06/12/17 meeting in order to visit the site again, to verify lake setback to the deck and the residence and for the applicant to consider alternative to the proposed roof overhang.

Anderson, Mark & Wictor, Denise, Crooked Lake Township on property described as Part of Lots 12 & 13, "Roosevelt Lake Heights", Section 14-139-26, PID #12-416-0116 located at 1268 65<sup>th</sup> Avenue NE. An application submitted "after the fact" to be allowed to retain a platform, hot tub and fire pit/sitting area all placed sans permit within the bluff setback area. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1126.1 B. which requires structures to be located 30 feet from the top or toe of a bluff. The property contains one acre riparian to Lake Roosevelt (GD).

PC members were at the site 05/02/17. 35 notices of the application were mailed with one response of support for approval of the application received. The application was reviewed and discussed with Ms. Wictor and Mr. Anderson.

MS/P Kostial/Fitch to approve the application, "after the fact", to allow for the retention of the platform, hot tub and fire pit/sitting area located at PID #12-416-0116 upon review of the criteria contained in Sections 800 and 1126 1. B. of the Land Use Ordinance along with M.S. 394.27, Subdivision 7 and the "Stadsvold Decision" with the following findings and condition:

Findings:

1. Although the platform, hot tub and fire pit are within the bluff setback area, there is no indication that the bluff or bluff area from the top or toe has been or would be negatively impacted by erosion or vegetative removal.
2. There is nothing to indicate that the application is solely financially based.
3. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
4. The practical difficulty is to determine if the bluff setback area encroachment has altered, disturbed or negatively impacted the bluff to which there is visual evidence that it has.
5. 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.
6. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
7. Based upon the above findings, the "Stadsvold" findings and the following conditions associated with this approval, there is nothing to indicate that the proposed additions 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. There is nothing to indicate or anyway to determine that the applicants did not act in good faith when the shoreland alteration activity took place.
2. There is nothing to indicate or anyway to determine if the applicant inquired as to permit and placement limits for the shoreland alteration.
3. Construction has been completed.
4. There are similar shoreland alterations along Lake Roosevelt and throughout the county.
5. The degree of impact to the bluff impact zone, to the area and the land use system is not significant 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 THE APPLICANT: No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD, correction of any circumstances in violation of laws or ordinances or the terms of this Variance, deposit of financial assurance as determined by ESD to secure correction of violations and completion of other measures required by ESD.

Condition:

1. The applicant shall obtain applicable permits, fees and administrative fees as determined by ESD staff by 06/30/17.

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.

Birkinbine, Randy, Woodrow Township on property described as N450 Feet of Govt Lot 8, Section 10-140-29, PID #51-010-1401 located at 4297 E McKeown Drive NW. An application submitted to expand the existing non-conforming residence that is 89 feet from the lake with a second floor and a 10 feet x 15 porch addition. In addition that application calls for the expansion of the existing non-conforming accessory structure/bunkhouse which is 66 feet from the lake with a 7 feet x 11 feet addition and an 8 feet x 8 feet deck. 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 100 feet from a lake classified Recreation Development (RD). The property contains 2.5 acres riparian to McKeown Lake (RD).

PC members were at the site 05/01/17. 23 notices of the application were mailed with no responses received. The application was reviewed and discussed with Mr. Birkinbine who informed the members of the withdrawal from consideration of the accessory structure/bunkhouse deck addition portion of the application.

MS/P Kostial/Pehling to approve the application for variance for the expansion of the residence and accessory structure/bunkhouse located at PID #51-010-1401 upon review of the criteria contained in Sections 800, 1115.3 and 1126 1. A. & B. of the Land Use Ordinance along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. The property became on record in 1953.
2. There is no record in the permit archive of the original construction and it can be assumed that it was prior to the adoption of land use regulation.
3. The residence is 89 feet from the lake which therefore is deemed non-compliant which necessitates that a variance be obtained for the addition of the upper level.
4. The structure designated as bunkhouse is 66 feet from the lake which is therefore deemed non-compliant which requires variance for expansion.
5. ESD staff has verified that the steep area lakeside of the accessory structure/bunkhouse is not a bluff.
6. The proposed additions to the residence and bunkhouse will not increase existing lake setback encroachment.
7. Based upon the location and configuration of the residence and the bunkhouse, there is no evidence or indication that the proposed expansions will have a negative effect to neighboring property or lake users.
8. Approval of the application will not allow a use that is prohibited in the zoning district in which the subject property is located.
9. Approval of the application assuming compliance with applicable run-off related conditions will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.
10. Approval of the application will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
11. Based upon the above finding and the following conditions associated with this approval, there is nothing to indicate that the proposed additions 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.
4. As required by other conditions as set forth.

No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD, correction of any circumstances in violation of laws or ordinances or the terms of this Variance, deposit of financial assurance as determined by ESD to secure correction of violations and completion of other measures required by ESD.

Conditions:

1. No run-off to the lake or adjoining properties is permitted. Run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
2. The size and height of the second floor expansion shall not vary from that submitted 05/08/17 unless approved by ESD staff or if necessary the Planning Commission.
3. The addition to the accessory structure/bunkhouse shall not exceed 11 feet x 11 feet.
4. Approval does not allow or imply approval that the structure to be expanded can be removed by demolition or any other method from the site nor shall the structure to be expanded be reduced to "one wall".
5. The applicant must select one only access area to the lake and abandon and restore vegetation to the access not selected for use 09/30/17.
6. ESD staff must determine and if required, the applicant shall install approved construction erosion control.
7. Any material resulting from demolition and construction not reused or recycled must be disposed of in a permitted facility.
8. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
9. Applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
10. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 05/08/19.

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.

Brackin, Dennis, Ponto Lake Township on property described as Part of Govt Lot 6, Section 20-139-29, PID #32-020-1304 located at 1735 10<sup>th</sup> Street NW. An application submitted to expand an existing non-conforming residence with a 24 feet x 30 feet addition to be located less than 100 feet from the lake but no closer than the current lake setback. The residence is deemed non-conforming because it is located 44 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1115.3 which establishes the non-conforming 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 1.06 acre riparian to Sylvan Lake (RD).

PC members were at the site 05/01/17. 18 notices of the application were mailed with no responses received. The application was reviewed and discussed with Margie and Dennis Brackin.

MS/P Fitch/Pehling to approve the application for variance for the expansion of the residence located at PID #32-020-1304 upon review of the criteria contained in Sections 800, 1115.3 and 1126 1. A. & B. 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 1952.
2. There is no record in the permit archive as the original construction and it can be assumed that it was prior to the adoption of land use regulation.
3. At the closest point the residence is 44 feet from the and therefore deemed non-compliant which necessitates that a variance be obtained for the proposed expansion.
4. Based upon the location and configuration of the residence, there is no evidence or indication that the proposed expansion will have a negative effect to 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 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 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. Based upon the above finding and the following conditions associated with this approval, there is nothing to indicate that the proposed 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.
4. As required by other conditions as set forth.

No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD, correction of any circumstances in violation of laws or ordinances or the terms of this Variance, deposit of financial assurance as determined by ESD to secure correction of violations and completion of other measures required by ESD.

Conditions:

1. No run-off to the lake or adjoining properties is permitted. 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, configuration and height of the addition and roof configuration shall not vary from that submitted 04/04/17 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. Approval does not allow or imply approval that the structure to be expanded can be removed by demolition or any other method from the site nor shall the structure to be expanded be reduced to "one wall".
5. Any material resulting from demolition and construction not reused or recycled must be disposed of in a permitted facility.
6. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
7. Applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
8. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 05/08/19.

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

Campion, James, Crooked Lake Township on property described as Lots 8 & 9, Block 1, "Brown's Washburn Lake Addition", Section 5-139-26, PID #12-374-0130 located at 5603 Fehrs Drive NE. An application submitted to remove the existing residence located 47 feet from the lake with new construction to be located 57 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1126.1 A. which requires structures to be located 75 feet from a lake classified General Development (GD). The property contains .6 acre riparian to Lake Washburn (GD).

PC members were at the site 04/03/17 and 05/02/17. 23 notices of the application were mailed for each the 04/10/17 and 05/08/17 meetings. One response supporting approval of the application and 5 advocating denial of the application were received in response to the 04/10/17 meeting notice. During the 04/10/17 meeting the application was reviewed and discussed with Mr. Campion's daughter who was representing him. Discussion was devoted to the meaning/interpretation of "practical difficulties and to the meaning/interpretation of "circumstances unique to the property not created the landowner". Consideration of this application was tabled during the 04/10/17 meeting in order for another site visit to be conducted and to allow the applicant to consider other setback/location options.

MS/P Moore/Pehling to deny the application for the lake setback for a residence to be constructed upon PID #12-374-0130 based upon Section 800 of the Land Use Ordinance and MS 394.24 Subdivision 7 with the following findings:

Findings:

1. Consideration of this application was tabled during the 04/10 meeting in order that the applicant and representatives consider and determine if there are feasible placement options to move a proposed new residence location further away from the lake.
2. ESD received no revised plan or communication from the applicant or his representative by the 04/19/17 submittal deadline for this meeting nor has there been communication received in the period 04/19/17 to 05/08/17.
3. The applicant or his representatives have not presented or articulated any information to establish that the "practical difficulties" standard is met as used in connection with the granting of a variance or that the configuration and topography create a "circumstance unique to the property" that justifies a closer lake setback than proposed.

Houston, Matthew & Jean, Hiram Township on property described as Lot 9, Block 1, "Lighthouse Point", Section 13-140-31, PID #16-417-0190 located at 3747 Ford Drive NW. An application submitted to remove the existing residence and replace with a 26 feet x 36 feet residence to



be located 60 feet from the lake at the closest point and to construct a 12 feet x 24 feet bunkhouse/guest quarters to be located 32 feet from the lake at the closest point from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1126.1 A. which requires structures to be located 75 feet from a lake classified General Development (GD). The property contains .88 acre riparian to Birch Lake (GD).

PC members were at the site 05/10/17. 40 notices of the application were mailed. One responses favoring approval of the application was received. The application was reviewed and discussed with Mr. Houston.

MS/P Froehlig/Fitch to approve the application for variance for closer lake setback for the residence and guest bunkhouse/guest quarters to be located at PID #16-471-0190 upon review of the criteria contained in Sections 800 and 1126 1. of the Land Use Ordinance along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. "Lighthouse Point" was platted in 1972 which divided the point into two lots each bounded on two sides by the lake.
2. One tenth of Lot 9 is available for construction without variance and in addition, two large permanent ice ridges further limit placement options.
3. The existing residence located at 20 feet from the lake will be removed and replace with a residence and guest cottage both further from the lake.
4. Based upon the size and configuration of the lot, placement options are severely limited and that proposed structure locations are justified.
5. There is no information or evidence to indicate that the application is primarily financially based.
6. Approval of the application will not allow a use that is prohibited in the zoning district in which the subject property is located.
7. Approval of the application assuming compliance with applicable run-off related conditions will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.
8. Approval of the application will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
9. Based upon the above findings and the following conditions associated with this approval, there is nothing to indicate that the proposed structures 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.
4. As required by other conditions as set forth.

No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD, correction of any circumstances in violation of laws or ordinances or the terms of this Variance, deposit of financial assurance as determined by ESD to secure correction of violations and completion of other measures required by ESD.

Conditions:

1. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD staff, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
2. The guest cottage structure shall not exceed 12 feet x 24 feet not less than 32 feet from the lake and the residence/attached garage shall be one floor not exceed 38 feet x 58 feet to be not less than 60 feet from the lake
3. The size, location and height of the structures shall not vary from that submitted 04/18/17 unless approved by ESD staff or if necessary the Planning Commission.
4. ESD staff must determine and if required, the applicant shall install approved construction erosion control.
5. Any material resulting from construction not reused or recycled must be disposed of in a permitted facility.
6. Applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
7. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
8. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 05/08/19.

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.

Lappin, Brian, Wabedo Township on property described as Lot 12, "Island View", Section 18-140-28, PID #46-407-0121 located at 160 Island View Lane NE. An application submitted to expand an existing non-conforming residence with a 13 feet x 16 feet addition. The residence is non-conforming because it is located at less than 30 feet from the top of a bluff. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1115.3 which establishes the non-conforming expansion criteria and Section 1126.1 B. which requires structures to be located 30 feet from the top or toe of a bluff. The property contains .4 acre riparian to Woman Lake (GD).

PC members were at the site 05/02/17. 32 notices of the application were mailed. Three responses, including that of Wabedo Township, all endorsing approval of the application were received. The application was reviewed and discussed with Mr. Lappin.

MS/P Fitch/Pehling to approve the variance application as submitted for the residence expansion located at PID #46-407-0121 upon review of the criteria contained in Sections 800, 1115.3 and 1126 1.A. of the Land Use Ordinance along with along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. "Island View" was platted in 1959 prior to the adoption of land use regulation.
2. Construction of the residence was permitted in 1992, ZP92-140-28-5, prior to bluff setback requirements.
3. The residence complies with the lake setback requirement of 75 feet.
4. The application calls for the enclosure of a 13 feet x 16 feet portion of an existing deck which will not affect the existing footprint of the residence.
5. Based upon the size, configuration and location of the structure, the proposed enclosure is relatively benign and justified.
6. There is no information or evidence to indicate that the application is primarily financially based.
7. Approval of the application will not allow a use that is prohibited in the zoning district in which the subject property is located.
8. Approval of the application assuming compliance with applicable run-off related conditions will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.
9. Approval of the application will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
10. Based upon the above finding and the following conditions associated with this approval, there is nothing to indicate that the proposed additions 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.
4. As required by other conditions as set forth.

No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD, correction of any circumstances in violation of laws or ordinances or the terms of this Variance, deposit of financial assurance as determined by ESD to secure correction of violations and completion of other measures required by ESD.

Conditions:

1. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD staff, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
2. The size and location of the deck enclosure shall not vary from that submitted 04/14/17 unless approved by ESD staff or if necessary the Planning Commission.
3. ESD staff must determine and if required, the applicant shall install approved construction erosion control.
4. Any material resulting from construction not reused or recycled must be disposed of in a permitted facility.
5. Applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
6. Applicant shall consent to inspection of the property by ESD staff and Wabedo Township representatives to verify compliance with conditions.
7. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 05/08/19.

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,  
REVOCAION OF THIS VARIANCE, REMOVAL OF VIOLATIONS AND MITIGATION.

Olson, David & Trudi, Ponto Lake Township on property described as Lot 2, Block 1, "Re-Arrangement of Lots 7, 8 and 9, Block Two", "Hand Lake Homesites", Section 14-139-29, PID #32-395-0120 located at 445 Hand Lake Lane NW. An application submitted to expand an existing non-conforming residence with a 12 feet x 26 feet addition. The residence is non-conforming because it is located at less than 30 feet from the top of a bluff and the addition if approved would be located less than 100 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1115.3 which establishes the non-conforming expansion criteria and Section 1126.1 A. & B. which requires structures to be located 100 feet from a lake classified Recreational Development (RD) and to be located 30 feet from the top or toe of a bluff. The property contains 1.5 acres riparian to Hand Lake (RD). ).

Consideration of this application was tabled during the 04/10/17 meeting. PC members were at the site 04/03/17 and 05/01/17. 28 notices of the application were mailed for both the 04/10/17 and 05/08 meetings with no written responses received. A neighbor did appear at this meeting to voice support of approval of the application. The application was reviewed and discussed with Trudi and David Olson. Discussion was devoted to the meaning/interpretation of "practical difficulties, to the meaning/interpretation of "circumstances unique to the property not created the landowner", and the existing bluff and lake setback of the residence to be expanded.

MS/P Moore/Pehling - Fitch-Yes, Froehlig-No, Kostial-No, Moore-Yes, Pehling-Yes to deny the application for expansion of the residence located at PID #32-395-0120 based upon the criteria of Section 800 of the Land Use Ordinance and MS 394.27 Subdivision 7 with the following findings:

Findings:

1. ESD staff has verified that the proposed addition would be located at less than the required lake and bluff impact zone setbacks.
2. The applicants have viable options to place the proposed addition at a structure side other than lakeside or the applicants could move the residence further from the lake and bluff.
3. The applicants have not presented or articulated any information to establish that the "practical difficulties" standard is met as used in connection with the granting of a variance or that the configuration and topography create a "circumstance unique to the property" that justifies a closer lake and bluff impact zone setback.

Remington, James & Lynn, Crooked Lake Township on property described as S 100 Feet of N 600 Feet of Govt Lot 4, Section 20-139-26, PID #12-020-2106 located at 1144 Mule Lake Drive NE. An application submitted to expand an existing 24 feet x 26 feet non-conforming accessory structure/garage with an 18 feet x 24 feet addition. The structure is non-conforming because

it is located at less than 150 feet from the lake. In addition, the proposed square footage of the addition will place the total square feet of accessory structure allowed based upon lot size. Existing square feet accessory structure is 2,184 with proposed expansion of 432 square feet which would bring the total to 2,616 square which will exceed the amount allowed, 2,400 square feet, based upon 2.2 acres riparian, by 216 square feet. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1101 which establishes accessory structure square feet allowed based upon lot size, Section 1115.3 which establishes the non-conforming 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 2.2 acres riparian to Mule Lake (NE).

PC members were at the site 05/02/17. 35 notices of the application were mailed with no responses received. The application was reviewed and discussed with Lynn Remington.

MS/P Kostial/Froehlig to approve the variance as submitted for the accessory structure/garage expansion located at the lakeside of Mule Lake Drive NE upon PID #12-020-2106 upon review of the criteria contained in Sections 800, 1101, 1115.3 and 1126 1.A. of the Land Use Ordinance along with along with M.S. 394.27, Subd. 7 with the following findings and conditions:

#### Findings:

1. The accessory structure/garage proposed for expansion was approved by VPO3-139-26-2.
2. The property became of record in 1948 prior to the adoption of land use regulation and lake classification.
3. Realignment of the current driveway configuration is an opportunity to improve the control and limit run-off from the property to the lake.
4. There is nothing to indicate that the proposed expansion will have any detrimental visual impact to Mule Lake or neighboring property or contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
5. The proposed expansion will 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. Approval of the application will not allow a use that is prohibited in the zoning district in which the subject property is located.
7. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
8. Based upon the above finding 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 written plan for suitable vegetation shall be approved by ESD and agreed to be implemented by applicant.
3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other conditions as set forth.

No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD, correction of any circumstances in violation of laws or ordinances or the terms of this Variance, deposit of financial assurance as determined by ESD to secure correction of violations and completion of other measures required by ESD.

Conditions:

1. The dimensions, location and configuration of the residence expansion shall not vary from that submitted 04/17/17 unless approved by ESD staff or if necessary, the PC/BOA.
2. Any material resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
3. ESD staff shall determine the need for construction erosion control and, if required, the applicant shall install ESD staff approved erosion control placement prior to the commencement of construction.
4. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD staff, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
5. Applicant shall consult with ESD staff in order to develop a plan to control and direct run-off from the new driveway.
6. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
7. The applicants shall consult with ESD staff for drainage and vegetation recommendation for the removal of the existing driveway.

8. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 05/08/19.

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.

Rowell, John & Bonnie, Crooked Lake Township on property described as Lot 14, Block 1, "Royal Oaks", Section 34-139-26, PID #12-499-0128 located at 6039 Royal Oaks Drive NE. An application submitted to enclose a 12 feet x 14 feet portion of an existing residence deck for a sunroom which complies with the lake setback but is less than 30 feet from the top of a bluff which is considered an addition to a non-conforming residence. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1115.3 which establishes the non-conforming structure expansion criteria and Section 1126.1 B. which requires structures to be located 30 feet from the top or toe of a bluff. The property contains .5 acre riparian to Lake Roosevelt (GD).

PC members were at the site 05/02/17. 38 notices of the application were mailed with no responses received. The application was reviewed and discussed with Mr. Rowell.

MS/P Froehlig/Kostial to approve the variance application as submitted to expand the residence located upon PID #12-499-0128 based upon review of the criteria contained in Sections 800, 1115.3 and 1126.1 b. of the Land Use Ordinance along with along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. "Royal Oaks" was platted in 1973 prior to the consideration of bluff and bluff setback and buildable area standards.
2. The lot contains about .5 acre primarily consisting of bluff and bluff impact zone.
3. The proposed deck enclosure will not affect footprint.
4. There is nothing to indicate that the proposed deck enclosure construction will have detrimental visual impact from Lake Roosevelt 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.
5. The surrounding area along Lake Roosevelt contains structures similar in size and scale to that proposed therefore there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed deck enclosure.
6. Approval of the application will not allow a use that is prohibited in the zoning district in which the subject property is located.



7. Approval of the application assuming compliance with applicable run-off related conditions will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.
8. Approval of the application will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
9. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
10. Based upon the above finding 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 written plan for suitable vegetation shall be approved by ESD and agreed to be implemented by applicant.
3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other conditions as set forth.

No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD, correction of any circumstances in violation of laws or ordinances or the terms of this Variance, deposit of financial assurance as determined by ESD to secure correction of violations and completion of other measures required by ESD.

Conditions:

1. The dimensions, location and configuration of the deck enclosure shall not vary from that submitted 04/18/17 unless approved by ESD staff or if necessary, the PC/BOA.
2. Any material resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.

3. ESD shall determine the need for construction erosion control and, if required, the applicant shall install ESD staff approved erosion control placement prior to the commencement of construction.
4. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD staff, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
5. The applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
6. Applicant consents to inspection of the property by ESD staff to verify compliance with conditions.
7. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 05/08/19.

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.

Thompson, Janet, Turtle Lake Township on property described as Part of Lot 9 Lying North of Cartway, Section 35-142-30, PID #45-548-0091 located at 3126 Rocky Point Drive NW. An application submitted to expand an existing non-conforming residence located 39 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes the variance criteria, Section 1115.3 which establishes the non-conforming structure expansion criteria and Section 1126.1 A. which requires structures to be setback 75 feet from a lake classified General Development (GD). The property contains .5 acre riparian to Leech Lake (GD).

PC members were at the site 05/01/17. 24 notices of the application with no responses received. The application was reviewed and discussed with Ms. Thompson and Mr. Key.

MS/P Froehlig/Kostial to approve the variance to expand the non-conforming residence located at PID #45-548-0091 upon review of the criteria contained in Sections 800, 1115.3 and 1126 1. of the Land Use Ordinance along with along with M.S. 394.27, Subd. 7 with the following findings and conditions:

Findings:

1. "Rocky Point" was platted in 1969 prior to the consideration of lot area and lot buildable area standards.
2. The proposed residence expansion will be non-lakeside and not visible from the lake.
3. There is nothing to indicate that the proposed residence expansion construction will have detrimental visual impact to Leech Lake 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.

4. The surrounding area along Leech Lake contains structures similar in size and scale to that proposed therefore there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed lot use.
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 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 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.
10. Based upon the above finding and the following conditions associated with this approval, there is nothing to indicate that the proposed 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 written plan for suitable vegetation shall be approved by ESD and agreed to be implemented by applicant.
3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other conditions as set forth.

No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD, correction of any circumstances in violation of laws or ordinances or the terms of this Variance, deposit of financial assurance as determined by ESD to secure correction of violations and completion of other measures required by ESD.

Conditions:

1. The dimensions, location and configuration of the residence expansion shall not vary from that approved 05/08/17 at the PC/BOA meeting unless approved by ESD staff or if necessary, the PC/BOA.
2. ESD staff must verify water table separation prior to installation of the foundation.
3. ESD staff must verify the location of any wetland based upon the submitted wetland delineation prior to the installation of the foundation.
4. Any material resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
5. ESD shall determine the need for construction erosion control and, if required, the applicant shall install ESD staff approved erosion control placement prior to the commencement of construction.
6. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD staff, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
7. Approval does not allow or imply approval that the structure to be expanded can be removed by demolition or any other method from the site nor shall the structure to be expanded be reduced to "one wall".
8. The applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
9. Applicant consents to inspection of the property by ESD staff to verify compliance with conditions.
10. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 05/08/19.

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.

Wagner, Peggy, Kego Township on property described as Part of Govt Lot 2, Section 22-141-28, PID #19-022-1402 located at 5801 County 126 NE. An application submitted, "after the fact", to be allowed to retain a recreational vehicle trailer and two outhouses located at less than 150 feet from the lake placed sans permit. The applicable portions of the Land Use Ordinance include Section 800 which establishes the variance criteria and Section 1126.1 A. which requires structures and Subservice Sewage Treatment Systems (SSTS) including an outhouse to be setback 150 feet from a lake classified Natural Environment (NE). The property contains 4.24 acres riparian to Maple Lake (NE).

PC members were at the site 05/02/17. 31 notices of the application were mailed. Four responses all opposed to approval of the application were received. The application was reviewed and discussed with Peggy Wagner. Discussion was devoted to the lack of permit

inquiry or acquisition, the meaning/interpretation of "practical difficulties and to the meaning/interpretation of "circumstances unique to the property not created the landowner".

MS/P Moore/Froehlig to deny the application to allow the RV trailer and various small structures to remain within 150 feet of the lake at PID #19-022-1402 based upon the criteria of Section 800 of the Land Use Ordinance and MS 394.27 Subdivision 7 with the following findings and condition:

Findings:

1. There is no record of any inquiry or attempt by the applicants to obtain information or permit applications in regard to development on the property.
2. The topography and size of the property does not pose limitations to placement options at the required lake setback.
3. The applicant has not presented or articulated any information to establish that the "circumstances unique to the property" or that the "not created by the current landowner" standards are met. Based upon Findings 1, 2 & 3, the "practical difficulties" standard is not met as used in connection with the granting of a variance because the configuration and topography do not create a circumstance unique to the property that justifies a closer lake setback.

Condition:

1. The RV trailer and various small structures must be moved to at least 150 feet from the lake by 07/01/18.

Wurm, David, Turtle Lake Township on property described as Part of Govt Lot 2, Section 15-142-30, PID #45-115-2401 located at 8714 Stony Point Camp Trail NW. An application submitted to construct a 2,008 accessory/storage structure which will cause the property to exceed the maximum square footage of accessory structures allowed by lot size. The property is riparian and contains .95 acre which allows for a maximum of 1,200 square feet total accessory structure square footage. The property currently contains a 768 square feet of accessory structure. Through the increased setback allowance the property has 574 square feet available. The application requests a structure containing 2,008 square feet which would exceed the maximum allowed by 1,434 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 .95 acres riparian to Leech Lake (GD).

PC members were at the site 05/01/17. 35 notices of the application were mailed with no responses received. Dennis King on behalf of Turtle Lake appeared to voice concerns in regard to potential run-off and resultant potential repairs by Turtle Lake Township to Stony Point Camp Trail. The application was reviewed and discussed with Mr. Wurm's representative Mark Spitzak of Spitzak Building.

MS/P Kostial/Froehlig to approve the size of the accessory structure at PID #45-115-2401 upon review of the criteria contained in Sections 800 and 1101 of the Land Use Ordinance along with along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. The property became of record in 1947 prior to the adoption of land use regulation and accessory structure size limits based upon lot size in particular.
2. The structure will be located on the non-riparian side of Stony Point Camp Trail and unobservable from the lake.
3. The surrounding area along Leech Lake contains structures similar in size and scale to that proposed therefore there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed lot use.
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 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.
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 finding and the following conditions associated with this approval, there is nothing to indicate that the proposed additions 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 written plan for suitable vegetation shall be approved by ESD and agreed to be implemented by applicant.
3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other conditions as set forth.

No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD, correction of any circumstances in violation of laws or ordinances or the terms of this Variance, deposit of financial assurance as determined by ESD to secure correction of violations and completion of other measures required by ESD.

Conditions:

1. The dimensions, location and configuration of the structure shall not vary from that submitted 04/04/17 unless approved by ESD staff or if necessary, the PC/BOA.
2. Any material resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
3. ESD shall determine the need for construction erosion control and, if required, the applicant shall install ESD staff approved erosion control placement prior to the commencement of construction.
4. No run-off to the lake, adjoining properties and Stony Point Camp Trail is permitted. If determined necessary by ESD staff, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
5. The applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
6. Applicant consents to inspection of the property by ESD staff to verify compliance with conditions.
7. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 05/08/19.

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

Northfork Boulders & Excavation LLC, Moose Lake Township on property owned by Rex & Janine Wells described as NW NW, Section 28-136-31, PID #27-028-2200 located along County #24. An application submitted to establish an extractive use upon 6 acres of the parcel consisting of sand/gravel excavation, crushing and storage. Such land use requires a conditional use permit (CUP). The applicable sections of the Land Use Ordinance include Section 705 which establishes CUP standards and Section 1107 which establishes the extract use criteria and requirements. The property contains 40.97 acres (AF).

PC members were at the site 05/02/17. 10 notices of the application were mailed with no responses received. The application was reviewed and discussed with Northfork Boulders Excavation LLC owners.

MS/P Fitch/Kostial to approve extractive use activity at PID #27-028-2200 based upon the criteria contained in Sections 705 and 1107 of the Land Use Ordinance along with M.S. 394.301 with the following findings and conditions:

Findings:

1. It has been established that suitable sources of base material required to maintain and construct roads at all governmental levels must be available in adequate and economical quantities.
2. The proposed extractive use complies with Section 1107.
3. No wetland or critical habitats will be affected by the proposed land use activity.
4. No scenic or historic features will be affected by the proposed land use activity.
5. No evidence or information has been submitted to establish that the proposed land use will have a detrimental effect to public health, safety or welfare.
6. No evidence or information has been submitted to establish that the proposed land use activity has the potential to alter or be detrimental to land use in the general area.
7. Approval will not increase the need or demand for governmental services because no public road improvements are required and it does not require waste water treatment.
8. Approval does not contradict the purpose of the official controls, the Land Use Ordinance, which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and also to promote the health, safety, general welfare.
9. The proposed extractive use site is not adjacent to or observable from residential structures, public infrastructure or the public in general which therefore does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.

Conditions:

1. The operation plans and specifications submitted with the application are adopted and approved for implementation and shall not be altered without review and approval of the Planning Commission.
2. The Site Development Plan and the Reclamation Plan submitted with the application are adopted and approved and shall not be altered without review and approval of the Planning Commission.
3. Financial assurance in an amount determined by Section 1107.1 B. shall be submitted to ESD in order to allow commencement of operations.
4. The applicant shall notify ESD of the dates and duration of all extractive use activity.
5. The applicant shall obtain and maintain all applicable, including storm water run-off, MPCA permits.



6. The operation of the extractive use activity shall subscribe to and implement all applicable best management practices established in "A Handbook for Reclaiming Sand and Gravel Pits in Minnesota" published by the Minnesota DNR, July 1992.
7. Traffic control at the junction of the access road and County #24 shall be operated so as to not create a safety hazard and to comply with the "Manual on Uniform Traffic Control Devices for Streets and Highways" published by the US Department of Transportation, Federal Highway Administration, 2009 Edition.
8. No asphalt operations shall be conducted without the review and approval of the Planning Commission.
9. Access to the site shall be gated or otherwise controlled.
10. Unless revoked or otherwise revised by the Planning Commission this approval shall be effective as long as the site is used for the approved land use.

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 Dianne Olsen to revise VP13-140-31-3 approved 08/12/13 to allow height to peak of guest quarters to exceed 24 feet.

MS/P Kostial/Pehling to approve as submitted.

Request received from Kenneth Erickson to revise VP15-139-29-10 approved 10/12/15 to be allowed to enclose a portion of the approved deck.

MS/P Moore/Kostial to approve as submitted.

#### Environmental Impact Statement (EIS) Determination

Young Excavation Extractive Use/Gravel Pit, Pine River Township on property described as NW SW, Section 3-138-30, PID #31-003-3200 & SW SW, Section 3-138-30, PID #31-003-3300 located along 4<sup>th</sup> Street SW. Young Excavating proposes to use the property for an extractive use, gravel mining. Minnesota Rules 4410.4300 Subpart 12 B. requires the preparation on an Environmental Assessment Worksheet (EAW) for, "Development of a facility for the extraction or mining of sand, gravel, stone or other nonmetallic minerals, other than peat, which will excavate 40 or more acres of land to a mean depth of ten feet or more during its existence." Review of the EAW is assigned to the local governmental unit (LGU) which in Cass County is the Planning Commission. The EAW will be reviewed along with comments received in order to determine if the preparation of an EIS should be ordered. The property contains 80 acres (RR-2.5).

MS/P Kostial/Pehling to adopt a Negative Declaration for the preparation of an Environmental Impact Statement for the proposed Young Excavation extractive use gravel pit to be located in Section 3-138-30, Pine River Township of Cass County Minnesota:

**RESOLUTION REGARDING ENVIRONMENTAL REVIEW FOR THE PROPOSED YOUNG EXCAVATION EXTRACTIVE USE GRAVEL PIT TO BE LOCATED IN SECTION 3-138-30, PINE RIVER TOWNSHIP, CASS COUNTY, MINNESOTA**

**WHEREAS**, pursuant to Minn. Rules 4410.1000-4410.1700, and Minn. Rule 4410.4300, subpart 20a, Cass County, as the Responsible Governmental Unit (RGU), has prepared an Environmental Assessment Worksheet (EAW) for the proposed Young Excavation Gravel Pit (hereinafter “Project”); and

**WHEREAS**, pursuant to Minn. R. 4410.1500, the EAW was distributed to the EQB mailing list and other interested parties on march 20, 2017; and

**WHEREAS**, Cass County notified the public of the availability of the EAW for public comment, and a news release was provided to the Pine Cone Press: thereafter the EAW was published in the EQB Monitor on March 20, 2017, and was made available for review on the Cass County Web site at co.cass.mn.us; and

**WHEREAS**, the public comment period for the EAW began on March 20, 2017 and ended on April 19, 2017, 2016. During the 30-day comment period, Cass County received two comments from government agencies; and

**WHEREAS**, responses to government agencies comments have been prepared; and

**WHEREAS**, the comments received from government agencies have indicated that there is no need for further information to be developed in order to properly evaluate the project; and

**WHEREAS**, the Planning Commission has reviewed the record compiled to date, and determined that information necessary for a reasoned decision has been presented; and

**NOW THEREFORE, BE IT RESOLVED** by the Cass County Planning Commission as follows:

1. Based upon the record prepared, the Planning Commission hereby determines that information necessary to a reasoned decision has been compiled and submitted.
2. Pursuant to Minn. Rule 4410.1700, there are no potential significant environmental effects that can be reasonably expected to occur that cannot be addressed through the CUP process.

**NOW THEREFORE, BE IT RESOLVED** by the Cass County Planning Commission determines a Negative Declaration for the preparation of an Environmental Impact Statement.

P. Fairbanks  
Cass County Environmental Services Department  
Cass County Courthouse  
PO Box 3000  
Walker MN 56484

218-547-7287  
[paul.fairbanks@co.cass.mn.us](mailto:paul.fairbanks@co.cass.mn.us)

MS/P Froehlig/Pehling at 1:32 PM, to adjourn.

P. Fairbanks