



Cass County
Planning Commission/Board of Adjustment

September 11, 2017

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting September 11, 2017 in the meeting room of the Cass County Land Department in Backus. The field inspection for the meeting was conducted September 5, 2017 with PC members Fitch, Froehlig, Kostial, La Porte and Moore along with ESD staff Fairbanks in attendance and September 6, 2017 with PC members Fitch, Froehlig, Kostial, LaPorte, Moore and Sundberg along with ESD staff Fairbanks in attendance.

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

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

Staff Present: Berg, Fairbanks, Navratil and Ringle.

Citizens Present: Jeff Anderson, Joe Arndt, Janice Beaver, Rick Beaver, Kris Biesner, Denise Clarke, Dennis Clarke, Gayleen Eckholm, Russell Flategraff, Tom Furman, Barb Halvorson, Jody Hanscom, John Hanscom, Judy Hanscom, Frank Hanzal, Mark Haws, Gregory Johnson, Stuart Johnson, David Judd, Janis Judd, Dennis King, Denise McCalla, Caryl Nelson, Jeff Peterson, Pete Rogers, Gary Sadecki, Adam Surma, Kevin Troseth, Bruce Wenner, Bonnielyn Witt, Bill Witt, Marla Yoho, and Lon Zubke.

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

Variance

Wenner, Bruce & Heidi, Shingobee Township on property described as Lot 4 & 1/22 Interest in Outlot A, "The Country", Section 30-141-30, PID #38-449-0120 located at 5407 Elderberry Lane NW. An application submitted to construct a second floor on an existing 26 feet x 32 feet accessory structure/garage. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1126.5 which establishes standards for living area located in other than the primary residence. The property contains .9 acre within the shoreland zone (.25 mile) of Howard Lake (RD).

PC members were at the site 09/05/17. 34 notices of the application were mailed with four responses, two of support and two of objection were received. The application was reviewed and discussed with Mr. Wenner.

MS/P Moore/Fitch to approve the application to expand with a second story the accessory structure/garage approved by VP16-141-31-1 located at PID #38-449-0120 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. VP16-141-31-1 was approved 11/14/16 for Mr. Wenner to construct an accessory structure at less than 30 feet from the top of a bluff.
2. The application and approval for VP16-141-31-1 was for a 26 feet x 32 feet, 832 square feet, one story structure, the actual dimension is 28 feet x 30 feet, 840 square.
3. ESD staff observance and inspection after commencement of construction revealed roughed in plumbing and rafters that indicate the intention to include a second story with presumed living area.
4. The accessory structure/garage is current subject to a Cease & Desist Order.
5. Mr. Wenner appeared before the Planning Commission as Other Business during the 08/14/17 meeting to request modification of the 11/14/16 approval to allow for a second story.
6. The Planning Commission determined during their 08/14/17 meeting that the terms of the 11/14/16 approval shall remain in effect.
7. "The Country" was platted in 1978 prior to the adoption of bluff criteria standards.
8. There is nothing in the permit archive to determine the original construction of the residence.
9. The lot is non-riparian and the location for the accessory structure/garage is more than 100 feet from the lake.
10. The maximum height to peak for an accessory structure is 24 feet.
11. There is no regulation of window size for such a structure.
12. Plumbing is not prohibited in such a structure.
13. The location of the residence along with the configuration and topography of the lot creates practical difficulty for the placement of the accessory structure/garage to which there is nothing to indicate that a second story will alter, disturb or negatively impact existing land use or neighboring property which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.
14. There is nothing to indicate that the application is solely financially based.
15. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
16. 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.

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

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

Conditions:

1. The height to peak shall not exceed 22 feet 2 inches and side walls shall not exceed 9 feet as requested by Mr. Wenner.
2. No portion of the second level shall be used for living area.
3. Plumbing for the structure shall utilize an appropriately sized SSTS.
4. Cass County ESD reserves the right to inspect the discharge area from time to time of the "daylight" garage floor drain for any erosion, vegetation loss or soil contamination and if issues are discovered, Cass County may require appropriate remediation including such measures as the installation of a sealed holding tank and evidence of a pumping contract as well as financial assurance if determined by ESD to be necessary for remediation.
5. ESD must determine and if required, the applicant shall install construction erosion control.
6. No run-off to adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
7. Any material resulting from construction not reused or recycled must be disposed of in a permitted facility.
8. Applicant shall consent to inspection of the property by ESD to verify compliance with conditions.
9. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 09/11/19.

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.

Anderson's Grand Vu Lodge, Turtle Lake Township on property described as Part of Govt Lot 2, Section 31-143-30, PID #45-231-1301 located at 9789 Pine Point Road NW. An application to expand a 28 feet x 51 feet non-conforming resort cabin located 52 feet with a second level. 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 located 75 feet from a lake

classified General Development (GD). The property contains 8.44 acres riparian to Leech Lake (GD).

PC members were at the site 09/05/17. 44 notices of the application were mailed with no responses received. The application was reviewed and discussed with Mr. Anderson.

MS/P Pehling/Froehlig to approved the second story expansion for the non-conforming resort cabin identified as "Lake Vu" located at Anderson's Grand View Resort located at PID #45-231-1301 based upon review of the criteria contained in Sections 800, 1104.9, 1115.3 and 1126.1 A. of the Land Use Ordinance along with M.S. 394.27, Subdivision 7 with the following findings:

Findings:

1. The property became of record in 1958 and has been operated as a resort for decades.
2. The resort cabin to be expanded was constructed at 58 feet prior to the adoption of land use regulation by a previous owner.
3. As allowed by statute and ordinance, the structure could be replaced at existing footprint and volume.
4. The expansion by a second story will not affect density or existing lake setback.
5. Based upon the location and configuration of the structure to be expanded; there is no evidence or indication that it will have a negative effect on neighboring property or lake users.
6. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
7. Approval of the application assuming compliance with applicable erosion control related conditions will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.
8. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
9. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
10. Based upon the above findings and the following conditions associated with this approval, there is nothing to indicate that the proposed 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 second story shall be of the size and configuration as submitted in the application submitted 08/03/17.
2. 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".
3. Any revision shall be approved by ESD or if necessary the Planning Commission.
4. 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.
5. ESD staff must determine and if required construction erosion control shall be installed.
6. Any material resulting from demolition and construction not reused or recycled must be disposed of in a permitted facility.
7. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
8. Applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
9. If shoreline vegetative enhancement, restoration or no mow is required by ESD or the Planning Commission, a plan shall be approved by ESD and agreed to be implemented by applicant.
10. As determined by ESD staff the plan may be substantially implemented or financial assurance in an amount determined by ESD staff in the form of cash or a letter of credit shall be submitted prior to the issuance of any permit.
11. If financial assurance is required, ESD shall determine a schedule to return and/or reduce the amount of financial assurance.
12. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 09/11/19.

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.

Aspen Construction, Birch Lake Township on property described as Part of SW NE, Section 18-140-30, PID #05-018-1300 located at 3798 State 371. An application to exceed the height limit, 30 feet, from ground to peak for a new commercial structure that will be 32 feet. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1126.2 which establishes 30 feet as the maximum height allowed for a structure. The property contains 35.34 acres.

PC members were at the site 09/05/17. 25 notices of the application were mailed with no response received. The application was reviewed and discussed with Mr. Baird.

MS/P Kostial/Froehlig to approve the application for increased height to peak, 32 feet, for the building to be constructed for Aspen Construction upon at PID #05-018-1300 based upon the criteria of Section 800 and 1126.5 of the Land Use Ordinance and MS 394.27 Subdivision 7 with the following findings and conditions:

Findings:

1. The property is commercial with part occupied by gravel extraction, a concrete manufacturing plant and storage and parking of a large number of related vehicles and equipment.
2. The proposed structure location is well screened from neighboring property and MN #371.
3. The increased height to peak of 2 feet will allow for more reasonable and convenient access with large equipment.
4. Based upon the location of the proposed structure, there is no evidence or indication that an increase 2 feet in height will have any negative effect on neighboring property.
5. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
6. Approval of the application assuming compliance with applicable erosion control related conditions will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.
7. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
8. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
9. Based upon the above findings and the following conditions associated with this approval, there is nothing to indicate that the proposed height 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 height to peak shall not be greater than 32 feet unless approved by ESD or if necessary the Planning Commission.
2. No run-off to adjoining properties is permitted.
3. ESD staff must determine and if required construction erosion control shall be installed.
4. Any material resulting from demolition and construction not reused or recycled must be disposed of in a permitted facility.
5. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
6. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 09/11/19.

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.

Beaver, Janice, Trelipe Township on property described as Lot 12, Block 1, "Trelipe Estates", Section 1-140-27, PID #44-341-0160 located at 4504 Beaver Drive NE. An application to exceed the maximum detached accessory structure square footage allowed based upon lot size. The property contains 1.3 acres which allows for 1,500 square feet. The property already contains a 1,600 square feet accessory structure. The application calls for an additional 1,080 square feet detached accessory structure. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1101 which establishes the

maximum accessory structure size based upon lot size. The property contains 1.3 acres riparian to Upper Trelipe Lake (RD).

PC members were at the site 09/06/17. 18 notices of the application were mailed with two responses endorsing approval received. The application was reviewed and discussed with Ms. Beaver and her son.

MS/Failed Moore/Fitch - Fitch/Yes, Froehlig/No, Kostial/No, LaPorte/No, Moore/Yes, Pehling/Abstain, Sundberg/Yes to deny the application to exceed the accessory structure square feet size limit for PID #44-341-0160 based upon the criteria of Section 800 of the Land Use Ordinance and MS 394.27 Subdivision 7 with the following findings.

1. The request to exceed the maximum square footage allowed based upon lot size fails to meet the "practical difficulty" standards as prescribed by statute and ordinance.
2. The applicant could not articulate compelling and persuasive reasoning that the maximum limit needs to be exceeded.
3. The applicant owns the adjacent lot, PID #44-341-0155 which is undeveloped to which the proposed structure could be constructed with permit not requiring a variance.

MS/Failed Kostial/Froehlig - Fitch/No, Froehlig/Yes, Kostial/Yes, LaPorte/Yes, Moore/No, Pehling/No, Sundberg/No to approve the application to exceed the accessory structure square feet size limit for PID #44-341-0160 based upon the criteria of Section 800 of the Land Use Ordinance and MS 394.27 Subdivision 7 with the following findings.

As a result of the failure of the motion to approve, the application is deemed to have been denied based upon the motion to deny findings.

Fassbender, Carl & Sherri, Gould Township on property described as Part of Govt Lot 2, Section 14-143-29, PID #15-114-1404 located at 11057 Five Mile Point Road NW. An application submitted to construct a 16 feet x 6 feet accessory/storage structure to be 47 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes the variance criteria and Section 1126.1 A. which requires structures to be located 75 feet from a lake classified General Development (GD). The property contains 2.74 acres riparian to Leech Lake (GD).

The application was withdrawn from consideration at the request of the applicant.

Floding, Jeffery, Birch Lake Township on property described as Lot 6, Block 1, "Scott's Addition", Section 13-140-30, PID #05-396-0160 located along Webb Lake Drive NW. An application submitted to construct a 35 feet x 65 feet residence/loft 70 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes the variance criteria and Section 1126.1 A. which requires structures to be located 100 feet from a lake classified Recreational Development (RD). The property contains .67 acre riparian to Webb Lake (RD).

PC members were at the site 09/05/17. 20 notices of the application were mailed with no response received. The application was reviewed and discussed with the applicant's representative Mr. Arndt and the buyer Mr. Johnson.

MS/P LaPorte/Froehlig to approve a lake setback of 80 feet from the OHWL of Webb Lake and 10 feet from the right-of-way of Webb Lake Drive NW for the residence and to allow the placement of the toe of the slope of the SSTS 10 feet from the right-of-way of Webb Lake Drive NW for PID #05-396-0160 based upon the criteria of Section 800 of the Land Use Ordinance and MS 394.27 Subdivision 7 with the following findings.

Findings:

1. "Scott's Addition" was platted in 1969 prior to the adoption minimum lot size requirements based upon lake classification.
2. The lot measures from 121 feet to 147 feet from the lake to the platted road which presents practical difficulty with 100 feet lake setback and 20 feet platted roadway setback.
3. The existing vegetation/trees will provide good screening from the lake and neighboring property.
4. Based upon the location, size and configuration of the proposed residence, there is no evidence or indication that they will have a negative effect on neighboring property or lake users.
5. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
6. Approval of the application assuming compliance with applicable erosion control related conditions will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.
7. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
8. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
9. Based upon the above findings and the following conditions associated with this approval, there is nothing to indicate that the proposed residence will alter, disturb or negatively impact existing land use or neighboring property which does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.

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

1. ESD required and approved erosion control is installed.
2. If shoreline vegetative enhancement, restoration or no mow is required by ESD or the Planning Commission, a plan shall be approved by ESD and agreed to be implemented by applicant.
3. As determined by ESD staff the plan may be substantially implemented or financial assurance in an amount determined by ESD staff in the form of cash or a letter of credit shall be submitted.

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

Conditions:

1. The residence shall not exceed 35 feet x 75 feet including an attached garage.
2. The residence is allowed a 0 feet setback from the platted right-of-way and 10 feet from the traveled road surface.
3. Any revision to the size of the residence must be approved by ESD or if necessary the Planning Commission.
4. 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.
5. ESD staff must determine and if required construction erosion control shall be installed.
6. Any material resulting from demolition and construction not reused or recycled must be disposed of in a permitted facility.
7. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
8. Applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
9. If shoreline vegetative enhancement, restoration or no mow is required by ESD or the Planning Commission, a plan shall be approved by ESD and agreed to be implemented by applicant.
10. As determined by ESD staff the plan may be substantially implemented or financial assurance in an amount determined by ESD staff in the form of cash or a letter of credit shall be submitted prior to the issuance of any permit.
11. If financial assurance is required, ESD shall determine a schedule to return and/or reduce the amount of financial assurance.
12. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 09/11/19.

COMPLIANCE WITH ALL CONDITIONS IS REQUIRED. FAILURE TO COMPLY WITH ANY CONDITION SHALL RESULT IN A VIOLATION AND SUBJECT THE APPLICANT TO

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REVOCAION OF THIS VARIANCE, REMOVAL OF VIOLATIONS AND MITIGATION.

Halverson, Dierk & Barbara, Hiram Township on property described as Lots 5 & 6, Block 1, "Long Beach", Section 11-140-31, PID #16-397-0110 located at 4081 Long Beach Drive NW. An application to increase the height and volume of a non-conforming residence located less than 75 feet from the lake. The height to peak lakeside is proposed for 26 feet. 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 criteria and Section 1126.1 A. which requires structures to be located 75 feet from a lake classified General Development (GD). The property contains .4 acre riparian to Ten Mile Lake (GD).

PC members were at the site 09/05/17. 30 notices of the application were mailed with no response received. The application was reviewed and discussed with Barb Halverson.

MS/P Froehlig/Kostial to approve the application for the expansion of the non-conforming residence located at PID #16-397-0110 based upon the criteria of Section 800 of the Land Use Ordinance and MS 394.27 Subdivision 7 with the following findings and conditions:

Findings:

1. "Long Beach" was platted in 1921.
2. The non-conforming residence is less than 75 feet from the lake.
3. The current height to peak is less than 20 feet.
4. The proposed height to peak, 26 feet, is less than the maximum allowed.
5. There is no record of original construction in the permit archive although it obviously pre-dates land use regulation.
6. The proposed residence expansion will increase height to peak to create a vaulted ceiling but not increase living area or footprint.
7. The proposed increase height to peak and resulting increase in structure volume will not affect the existing lake setback.
8. Based upon the location, size and configuration of the proposed expansion, there is no evidence or indication that they will have a negative effect on neighboring property or lake users.
9. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
10. Approval of the application assuming compliance with applicable erosion control related conditions will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.
11. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.
12. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

13. Based upon the above findings and the following conditions associated with this approval, there is nothing to indicate that the proposed expansion will alter, disturb or negatively impact existing land use or neighboring property which does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.

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

1. ESD required and approved erosion control is installed.
2. If shoreline vegetative enhancement, restoration or no mow is required by ESD or the Planning Commission, a plan shall be approved by ESD and agreed to be implemented by applicant.
3. As determined by ESD staff the plan may be substantially implemented or financial assurance in an amount determined by ESD staff in the form of cash or a letter of credit shall be submitted.

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

Conditions:

1. The size and height of the expansion shall be as submitted with the application 08/11/17.
2. 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".
3. Any revision to the site plan must be approved by ESD or if necessary the Planning Commission.
4. 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.
5. ESD staff must determine and if required construction erosion control shall be installed.
6. Any material resulting from demolition and construction not reused or recycled must be disposed of in a permitted facility.
7. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
8. Applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.

9. If shoreline vegetative enhancement, restoration or no mow is required by ESD or the Planning Commission, a plan shall be approved by ESD and agreed to be implemented by applicant.
10. As determined by ESD staff the plan may be substantially implemented or financial assurance in an amount determined by ESD staff in the form of cash or a letter of credit shall be submitted prior to the issuance of any permit.
11. If financial assurance is required, ESD shall determine a schedule to return and/or reduce the amount of financial assurance.
12. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 09/11/19.

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.

Hanscom, John & Judith, Hiram Township on property described as Lots 3 - 5, "Peaceful Shores", Section 13-140-31, PID #16-410-0030 located at 4885 Woodland Drive NW. An application to construct a 32 feet x 32 feet residence that will be the second residence on the property and will be 58 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes the variance criteria, Section 1120 which establishes that all lots, except as otherwise designated, are deemed single family residential which allow for separate guest cottages not to exceed 700 square feet located at all applicable setbacks and Section 1126.1 A. which requires structures to be located 75 feet from a lake classified General Development (GD). The property contains 2.2 acres riparian to Birch Lake (GD).

PC members were at the site 09/05/17. 83 notices of the application were mailed with two responses objecting to approval received. The application was reviewed and discussed with Jody, John and Judith Hanscom.

MS/P Kostial/Fitch to table consideration of the application to the 10/09/17 meeting in order for the applicants to consider their placement and size options.

Hanzal, Frank, Sylvan Township on property described as Lots 31-33, Block 1, "Sylvan Beach", Section 12-133-30, PID #41-498-0120 located at 12483 Lower Sylvan Road SW. An application received to expand an existing accessory structure /garage with a 28 feet x 30 feet addition to be located 5 feet from the nearest property boundary line. 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 B. which requires structures to be located 10 feet from a property boundary line. The property contains .9 acre riparian to Sylvan Lake (GD).

PC members were at the site 09/06/17. 27 notices of the application were mailed. One response from the Sylvan Township recommending approval of the application was received. The application was reviewed and discussed with Mr. Hanzal.

MS/P LaPorte/Kostial to approve the application to expand the existing non-conforming accessory structure/garage located at PID #41-498-0120 based upon the criteria of Sections 800, 1115.3 and 1126.1 B. of the Land Use Ordinance and MS 394.27 Subdivision 7 with the following findings and conditions:

Findings:

1. "Sylvan Beach" was platted in 1924.
2. There is no record of original construction in the permit archive although it obviously pre-dates land use regulation.
3. The structure to be expanded is not visible from the lake.
4. The structure to be expanded complies with lake and road setback but is less than 10 feet from the closest property boundary line.
5. The area for the expansion will be away from the lake.
6. Based upon the location, size and configuration of the proposed expansion, there is no evidence or indication that they will have a negative effect on neighboring property or lake users.
7. Approval 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 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.
9. Approval 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 expansion will alter, disturb or negatively impact existing land use or neighboring property which does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.

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

1. ESD required and approved erosion control is installed.

2. If shoreline vegetative enhancement, restoration or no mow is required by ESD or the Planning Commission, a plan shall be approved by ESD and agreed to be implemented by applicant.
3. As determined by ESD staff the plan may be substantially implemented or financial assurance in an amount determined by ESD staff in the form of cash or a letter of credit shall be submitted.

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

Conditions:

1. The size, 28 feet x 30 feet, and height, 1 foot above the current height, of the expansion shall not exceed that submitted with the application 08/23/17 and revised 09/11/17.
2. 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".
3. Any revision to the site plan must be approved by ESD or if necessary the Planning Commission.
4. 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.
5. ESD staff must determine and if required construction erosion control shall be installed.
6. Any material resulting from demolition and construction not reused or recycled must be disposed of in a permitted facility.
7. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
8. Applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
9. If shoreline vegetative enhancement, restoration or no mow is required by ESD or the Planning Commission, a plan shall be approved by ESD and agreed to be implemented by applicant.
10. As determined by ESD staff the plan may be substantially implemented or financial assurance in an amount determined by ESD staff in the form of cash or a letter of credit shall be submitted prior to the issuance of any permit.
11. If financial assurance is required, ESD shall determine a schedule to return and/or reduce the amount of financial assurance.
12. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 09/11/19.

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.

Haws, Mark, Birch Lake Township on property described as Lot 3, Block 1, "Shaefer Shores", Section 8-140-30, PID #05-360-0106 located at 4322 Robin Lane NW. An application to expand a non-conforming residence with 6 feet x 14 feet deck at less than the required lake setback and to enclose an 18 feet x 18 feet portion of deck that is located at less than the required setback from a bluff. 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. & B. which requires structures to be located 100 feet from a lake classified Recreational Development (RD) and 30 feet from the top or toe of a bluff. The property contains .7 acre riparian to Stony Lake (RD).

PC members were at the site 09/05/17. 36 notices of the application were mailed with one response objection to the approval of the application received. The application was reviewed and discussed with Mr. Haws.

MS/P Moore/Kostial to approve the application as submitted for the deck and addition to be located upon PID #05-360-0106 based upon the criteria of Sections 800, 1115.3 and 1126.1 B. of the Land Use Ordinance and MS 394.27 Subdivision 7 with the following findings and conditions:

Findings:

1. The property was platted in 1969 prior to the regulation of construction within the bluff impact zone.
2. The residence was constructed with ZP95-140-30-54 with no bluff setback requirement.
3. Neither the addition nor the deck will alter existing setback or will be visible from the lake.
4. There is nothing to indicate that the application is solely financially based.
5. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
6. Approval 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 and following conditions associated with this approval, there is nothing to indicate that the proposed addition and deck will alter, disturb or negatively impact land use or neighboring property which does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.

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

1. ESD required and approved erosion control is installed.
2. If shoreline vegetative enhancement, restoration or no mow is required by ESD or the Planning Commission, a plan shall be approved by ESD and agreed to be implemented by applicant.
3. As determined by ESD staff the plan may be substantially implemented or financial assurance in an amount determined by ESD staff in the form of cash or a letter of credit shall be submitted.

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

Conditions:

1. The addition and deck shall be of size, configuration and location as submitted with the application 08/22/17.
2. Any revision to the site plan shall be approved by ESD or if necessary the Planning Commission.
3. No run-off to the lake or adjoining properties is permitted. Run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
4. ESD staff must determine and if required construction erosion control shall be installed.
5. Any material resulting from demolition and construction not reused or recycled must be disposed of in a permitted facility.
6. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
7. Applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
8. If shoreline vegetative enhancement, restoration or no mow is required by ESD or the Planning Commission, a plan shall be approved by ESD and agreed to be implemented by applicant.
9. As determined by ESD staff the plan may be substantially implemented or financial assurance in an amount determined by ESD staff in the form of cash or a letter of credit shall be submitted prior to the issuance of any permit.
10. If financial assurance is required, ESD shall determine a schedule to return and/or reduce the amount of financial assurance.
11. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 09/11/19.

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.

Little Sand Group Home, Slater Township on property described as N 300 Feet of W 100 Feet of Govt Lot 9, Section 28-142-26, PID #39-028-4401 located at 5908 Little Sand Lane NE. An application to expand a non-conforming 22 feet x 26 feet structure located 69 feet from the lake with a second story. The applicable portions of the Land Use Ordinance include Section 800 which establishes the variance criteria, Section 1115.3 which establishes non-conforming structure expansion criteria and Section 1126.1 A. which requires structures to be located 150 feet from a lake classified Natural Environment (NE). The property contains .69 acre riparian to Little Sand Lake (NE).

PC members were at the site 09/06/17. 19 notices of the application were mailed with one response objection to approval of the application received. The application was reviewed and discussed with Little Sand Group Home representatives.

MS/P Moore/Kostial to approve the application for a second story for the non-conforming structure designated by the applicant at PID #39-028-4401 based upon the criteria of Sections 800, 1115.3 and 1126.1 B. of the Land Use Ordinance and MS 394.27 Subdivision 7 with the following findings and conditions:

Findings:

1. The proposed expansion consists of a second floor to an existing structure which will not affect footprint, setback or impervious surface.
2. The height to peak will be less than 30 feet.
3. There is nothing to indicate that the application is solely financially based.
4. There is nothing in the record to indicate that the current use has altered, disturbed or negatively impacted the neighborhood.
5. A second floor will not be detrimental to ground or surface water quality.
6. Based upon the above findings and the following conditions associated with this approval, there is nothing to indicate that the addition of a second story will alter, disturb or negatively impact land use or neighboring property which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.

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. Any revision to the site plan shall be approved by ESD or if necessary the Planning Commission.
2. 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".
3. No run-off to the lake or adjoining properties is permitted. Run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
4. ESD staff must determine and if required construction erosion control shall be installed.
5. Any material resulting from demolition and construction not reused or recycled must be disposed of in a permitted facility.
6. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
7. Applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
8. If shoreline vegetative enhancement, restoration or no mow is required by ESD or the Planning Commission, a plan shall be approved by ESD and agreed to be implemented by applicant.
9. As determined by ESD staff the plan may be substantially implemented or financial assurance in an amount determined by ESD staff in the form of cash or a letter of credit shall be submitted prior to the issuance of any permit.
10. If financial assurance is required, ESD shall determine a schedule to return and/or reduce the amount of financial assurance.
11. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 09/11/19.

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.

Sadecki, Gary, Ponto Lake Township on property described as Lot 7 & Part of Lot 6, "Boehm's South Shores Acres", Section 33-139-29, PID #32-475-0070 located at 362 Sunrise Drive SW. An application submitted to expand a non-conforming residence with an 18 feet x 18 feet addition 91 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes the variance criteria, Section 1115.3 which established the non-conforming structure expansion criteria and Section 1126.1 A. which requires structures to be located 100 feet from a lake classified Recreational Development (RD). The property contains 1.3 acres riparian to Lake Ada (RD).

PC members were at the site 09/06/17. 47 notices of the application were mailed with no response. The application was reviewed and discussed with Mr. Sadecki.

MS/P Kostial/Fitch to approve the application to expand the non-conforming residence located at PID #32-475-0070 based upon the criteria of Sections 800, 1115.3 and 1126.1 B. of the Land Use Ordinance and MS 394.27 Subdivision 7 with the following findings and conditions:

Findings:

1. The property was platted in 1957 prior to the adoption of land use regulation.
2. The existing porch was constructed with ZP77-139-29-44 at 90 feet.
3. The proposed expansion will not increase the existing lake setback encroachment.
4. There is nothing to indicate that the application is solely financially based.
5. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
6. Approval 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 and following conditions associated with this approval, there is nothing to indicate that the proposed residence expansion will alter, disturb or negatively impact land use or neighboring property which does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.

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

1. ESD required and approved erosion control is installed.
2. If shoreline vegetative enhancement, restoration or no mow is required by ESD or the Planning Commission, a plan shall be approved by ESD and agreed to be implemented by applicant.

3. As determined by ESD staff the plan may be substantially implemented or financial assurance in an amount determined by ESD staff in the form of cash or a letter of credit shall be submitted.

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

Conditions:

1. The expansion shall be of size, configuration and location as submitted with the application 08/14/17.
2. Any revision to the site plan shall be approved by ESD or if necessary the Planning Commission.
3. No run-off to the lake or adjoining properties is permitted. Run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
4. ESD staff must determine and if required construction erosion control shall be installed.
5. Any material resulting from demolition and construction not reused or recycled must be disposed of in a permitted facility.
6. Applicant shall consent to inspection of the property by ESD staff to verify compliance with conditions.
7. Applicant shall consult with ESD staff in order to comply with the Shoreland Assessment Model evaluation.
8. If shoreline vegetative enhancement, restoration or no mow is required by ESD or the Planning Commission, a plan shall be approved by ESD and agreed to be implemented by applicant.
9. As determined by ESD staff the plan may be substantially implemented or financial assurance in an amount determined by ESD staff in the form of cash or a letter of credit shall be submitted prior to the issuance of any permit.
10. If financial assurance is required, ESD shall determine a schedule to return and/or reduce the amount of financial assurance.
11. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 09/11/19.

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.

Vashro, Paul & Kathleen, Woodrow Township on property described as Lot 2, Block 1 & Lot 2, Block 2, "Maple Crest", Section 15-140-29, PID #51-422-0110 located at 3616 Bungey Bay Drive NW. An application submitted to replace the existing residence with a new 43 feet x 44 feet

residence with 14 feet x 22 feet deck to be located 29 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes the variance criteria and Section 1126.1 A. which requires structures to be located 75 feet from a lake classified General Development (GD). The portion of the property where the residence will be located contains .71 acre riparian to Woman Lake (GD).

PC members were at the site 09/05/17. 49 notices of the application were mailed with no response received. The application was reviewed and discussed with Kathleen and Paul Vashro.

MS/Withdrawn Moore/LaPorte to deny the application to remove, replace and expand the existing non-conforming residence located at PID #51-422-0110.

MS/P Moore/Fitch to table consideration of the application to the 10/09/17 meeting as requested by the applicants.

Conditional Use Permit

Flategraff, Russell, Loon Lake Township on property described as Lot 5, Block 1, "Loon Lake Hidden Estates", Section 19-136-29, PID #22-410-0150 located along Hidden Loon Trail SW. An application to be allowed "after the fact" to exceed the limits on the movement of earthen material within the Shore Impact Zone in order to comply with a Cass County/DNR Restoration Order for shoreline activity conducted without permit and in excess of all applicable maximum limits. The applicable portions of the Land Use Ordinance include Section 705 which establishes the CUP criteria, Section 1106.2 which establishes shoreline earthen material movement within 100 feet of the lake and Section 1128 which establishes the vegetative alteration criteria within 100 feet of the lake. The property contains 4.7 acres riparian to Loon Lake (RD).

PC members were at the site 09/06/17. 35 notices of the application were mailed with no response received. The nature of the grading and excavation exceedance was explained by ESD staff Scott Navratil. The application was reviewed and discussed with Mr. Flategraff.

MS/P Kostial/Moore to approve the application for grading and excavation to allow the applicant to comply with the ESD and DNR Restoration Orders for PID #22-410-0150 upon review of the criteria contained in Sections 705, 1106.2 and 1128 of the Land Use Ordinance along with M.S. 394.301 with the following findings and conditions:

Findings:

1. Considerable grading and vegetative removal has taken place on the property sans any consultation or permits resulting in significant detrimental effect to the property.
2. The CUP application is taken up, "after the fact" in order to effect the all terms and conditions of DNR and ESD Restoration Orders.

Conditions:

1. Any applicable land use permits must be obtained by 10/02/17.
2. All administrative fees as determined by ESD must be submitted by 10/16/17.
3. All terms and condition of the DNR and ESD Restoration Orders must be complied with as inspected and verified by DNR and ESD staff.
4. The applicant shall consent to inspection of the property by DNR and ESD staff to verify compliance with conditions.
5. The applicant shall submit cash or a Letter of Credit in favor of Cass County in the amount of \$15,000 by 10/02/17.

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.

Tri-City Paving Inc, Turtle Lake Township on property described as NW NE, Section 15-141-30, PID #45-015-1200 & NE NE Less E $\frac{1}{4}$ Thereof, Section 15-141-30, PID #45-015-1100 located at 3317 64th Street NW. An application submitted to renew CU10-141-30-1. No work or activity has taken place with the extractive use area since original or is any activity planned. The extractive use is only active based upon construction contract success in the area. The applicable portions of the Land Use Ordinance include Section 705 which establishes the CUP criteria and Section 1107 which establishes the extractive use criteria. The combined parcels contain 69.22 acres.

25 notices of the application were mailed. Four responses objecting to renewal of the CUP were received. Dennis King, Turtle Lake Supervisor, on behalf of Turtle Lake Township presented a list of grievances and complaints to Cass County and Tri-City Paving as to the current administration, operation and supervision of the gravel pit operation. The application was reviewed and discussed with Tri City Paving representative Adam Surma. Mr. Surma expressed Tri-City's willingness to respond to issues presented by Turtle Lake Township Supervisor Mr. King.

MS/P Moore/LaPorte to renew CU10-141-30-1 for extractive use operation upon PID #45-015-1200 & PID #45-015-1100 upon review of the criteria contained in Sections 705 and 1107 of the Land Use Ordinance in conjunction with existing conditions with M.S. 394.301 with the following findings:

Findings:

1. As previously presented in the original approval.
2. Based upon conditions presented to the Planning Commission during their 12/10/10 and the Court of Appeals decision of 10/10/12.
3. No extractive use activity has taken place at the site since the initial application.

Conditions:

1. Tri-City Paving shall address signage and operational issues as presented by Turtle Lake Township.
2. Tri-City Paving shall verify compliance with the financial assurance condition.
3. As currently in place with the approval of CU10141-31-1.
4. This CUP shall be subject to consideration for renewal 09/11/22.

Other Business

* Request received from Richard Clarke to interpret Condition # 4. of VP08-140-29-6 which was approved 10/13/08.

MS/P LaPorte/Froehlig to allow the existing deck structure to remain in place as it is currently configured:

* Request received from David and Janis Judd to extend the expiration date of VP14-139-26-3 which was approved 08/11/14.

MS/P Kostial/Moore to extend the expiration of the approval of VP14-139-26-3 to 09/11/19.

*Request received from Steve and Sharon Veno to extend the expiration date of VP15-140-29-6 which was approved 11/09/15.

MS/P Kostial/Moore to extend the expiration of VP15-140-29-6 to 09/11/19.

Variance

Troseth, Kevin, Fairview Township on property described as Lot 8, Block 1, "Pillsbury Forest Addition", Section 15-134-30, PID #14-384-0180 located at 3319 Long Lake Drive SW. An application submitted to expand the existing non-conforming 28 feet x 32 feet accessory/garage structure located 70 feet from the lake with upper level living quarters. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1115.3 which establishes non-conforming structure expansion criteria and Section 1126.1 A. & B. which require structures to be located 150 feet from a lake classified Natural Environment (NE) and 20 feet from the right-of-way of a public and/or platted roadway. The property contains .8 acre riparian to Long Lake (NE). PC members were at the site 07/11/17. 13 notices of the application were mailed with two responses received. One opposed to approval of the application and one from Fairview Township recommending approval of the application. The application was reviewed and discussed with Mr. and Mrs. Troseth.

MS/P Moore/Kostial to approve the application for the second floor expansion of the non-conforming structure as requested at PID #14-384-0180 upon review of the criteria contained in Sections 800, 1115.3 and 1126.1 of the Land Use Ordinance along with MS 394.27 Subdivision 7 with the following findings and conditions:

Findings:

1. "Pillsbury Forest Addition" was platted in 1992 consisting of former DNR lease lots.
2. There is nothing in the permit archive to determine when the residence and garage were constructed when subject to DNR jurisdiction both at less than the required lake setback.
3. The non-conforming residence was expanded with permit in 2002.
4. By utilizing the existing garage footprint area, the living guest quarters area will exceed the maximum allowed by 196 square feet.
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 guest quarters addition to the garage will alter, disturb or negatively impact existing land use or neighboring property which does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.

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

1. ESD required and approved erosion control is installed.
2. If shoreline vegetative enhancement, restoration or no mow is required by ESD or the Planning Commission, a plan shall be approved by ESD and agreed to be implemented by applicant.
3. As determined by ESD staff the plan may be substantially implemented or financial assurance in an amount determined by ESD staff in the form of cash or a letter of credit shall be submitted.

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

Conditions:

1. As requested by the applicants, this accessory structure expansion shall become the primary residence and current residence may be used as guest cottage.
2. 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".
3. The guest cottage shall not be available for rent or otherwise open to the public.
4. 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.
5. The size, height and location of the structure shall not vary from that submitted 06/19/17 unless approved by ESD staff or if necessary the Planning Commission.
6. ESD staff must determine and if required, the applicant shall install approved construction erosion control.
7. Any material resulting from 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 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.

MS/P Moore/Fitch at 4:15 PM, to adjourn.

P. Fairbanks