



Cass County  
Planning Commission

April 12, 2010

The Cass County Planning Commission conducted a regular meeting April 12, 2010 in the meeting room of the Cass County Land Department in Backus. The field inspection was conducted April 5, 2010.

Sundberg called the meeting to order at 10:00 a.m.

Members present: Ballenthin, Fitch, Gardner, Gould, Moore, Sundberg and Weber.

Staff Present: Berg and Fairbanks.

Citizens Present: Duane Anderson, Sue Anderson, Tom Dechmann, Jerry Dybevik, Theresa Dybevik, Greg Ellsworth, Deb Ferrell, Kevin Ferrell, Jack Fitzgerald, Gary French, Kay French, Cindy Gulbrandson, Mike Gulbrandson, Clydia Jacobsen, Jim Jacobsen, Jared Johnson, Michelle Johnson, Joe Laska, Brad Manson, Teresa Manson, Pam Moser, Tom Moser, Ray Rasinski, James Reents, Mark Ruyak, Kathy Sweeny, Bill Temple, Pat Temple, Norm Wieland, Marla Yoho, and Mavis Zachary.

MS/P Gould/Fitch to approve the minutes of the 11/24/09 regular Planning Commission meeting as presented.

MS/P Ballenthin/Weber to approve the minutes of the 03/08/10 Planning Commission regular meeting as presented.

#### Variance

Ackerman, Mary, Hiram Township on property described as Lots 29, 30 & 31, "Northwest Shores Ten Mile Lake", Section 4-140-31, PID # 16-349-0300 located at 4561 Alder Lane NW. An application submitted to expand an existing non-conforming residence located at less than the required lake setback with a 26 feet x 30 attached garage located on the non-lakeside of the residence and a 10 feet x 12 feet addition to the east side of the residence. The property contains .96 acres riparian to Ten Mile Lake (GD). Section 1115.3.B. of the Land Use Ordinance requires a variance in order to expand a non-conforming primary residence.

PC members were at the site 04/05/10. 31 notices of the variance application were mailed. One response objection to the application was received. The proposal was discussed and reviewed with the Mr. Ackerman.

MS/P Ballenthin/Gould to approve the application for the residence expansion located at PID # 16-349-0300 upon review of Section 805 of the Land Use Ordinance (3/1/09) along with criteria established by court decisions with the following findings and conditions.

Findings:

1. The expansion will not affect ground or surface water.
2. The expansion will have no affect to the land use of the area.
3. The expansion seems reasonable based upon the structural condition of the residence along with the size and configuration of the residence.
4. Financial consideration is not the sole basis of the application.
5. The expansion is not a substantial variation from the Land Use Ordinance standards.
6. Approval of the expansion will not increase the need or demand for governmental services.

Conditions:

1. The attached garage shall not exceed 26 feet x 30 feet.
2. The addition shall not exceed 10 feet x 12 feet.
3. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal facility.
4. ESD must determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
5. No storm water run-off to the lake, to the access road from the approved structure(s), or to adjoining properties is permitted. The approved structure, and any structure to which the approved structure is attached, if necessary, shall be equipped with gutters to redirect storm water and if needed water retention structures (rain gardens, for example) shall be installed to retain structure run-off and prevent run-off to the lake, the access road, and adjoining properties.
6. Existing vegetation between the shore of Ten Mile Lake and the residence shall not be disturbed except as allowed by a Shoreline Alteration.
7. Applicant consents to inspection of the property from time to time by ESD to verify compliance with all conditions.

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.

### Variance & Conditional Use Permit

Anderson, Duane & Sue, Woodrow Township, VP10-10-140-29-3 & CU10-140-29-1 on property described as Lot 2, Blk 1, "Shades of Summer Addition", Section 19-140-29, PID # 51-443-0020 located at 3391 21<sup>st</sup> Ave NW. An application submitted to construct a 26 feet x 34 walk-out basement for residence located 88 feet from the lake and an application for the movement of more than 50 cubic yards of earthen material in order to construct the walk-out basement. The property contains .49 acres riparian to Trillium Lake (RD). Section 1115.3 B. of the Land Use Ordinance requires that expansion of a non-conforming residence with a walk-out basement be allowed only by variance. Section 1106.2 A. of the Land Use Ordinance requires a conditional use permit for the movement of more than 50 cubic yards within the lake setback area.

PC members were at the site 04/05/10. 38 notices of the variance application and 76 notices of the conditional use permit application were mailed. 7 responses, including Woodrow Township, all objecting to approval of the applications were received. The proposal was discussed and reviewed with the applicants. Discussion included the dimensions of the deck, shoreline vegetation, wetland area, basement excavation and the amount of material to be excavated.

MS/P Ballenthin/Gould to deny the application and the application for a conditional use permit for PID # 51-443-0020 upon review of Sections 704 & 805 of the Land Use Ordinance (3/1/09) with the following findings.

### Findings:

1. The property contain less than one half (.49) acres and not suitable for the amount of excavation requested.
2. The excavation proposed would result in substantial disturbance to natural landscape and slope of the property which conflicts with the comprehensive plan's intent to preserve the natural environment especially in shoreland area.
3. A basement with no outside access can be obtained by permit without variance which therefore does restrict the applicants' ability to utilize their property.
4. The movement of earthen material of not more than 50 cubic yards is allowed by permit without variance in the lake setback area which therefore does not restrict the applicants' ability to utilize their property.

### Variance

Ellsworth, Greg, Woodrow Township, VP10-140-29-5 on property described as W 90' of S400' of E 780.75' of Govt Lot 4, Section 29-140-29, PID # 51-029-2302 located at

1975 31st St NW. An application submitted to expand a non-conforming residence with the enclosure of a 6 feet x 14 deck located on the side of the residence and by constructing a 20 feet x 20 feet addition located on the non-lakeside of the residence an application. The property contains .83 acres riparian to Big Deep Lake (RD). Section 1115.3 B. of the Land Use Ordinance requires that expansion of a non-conforming residence be allowed only by variance.

PC members were at the site 04/05/10. 26 notices of the variance application were mailed. Two responses, including Woodrow Township, offering no objection to approval of the applications were received. The proposal was discussed and reviewed with the applicant.

MS/P Ballenthin/Fitch to approve the application for the residence expansion located upon PID # 51-029-2302 upon review of Section 805 of the Land Use Ordinance (3/1/09) along with criteria established by court decisions with the following findings and conditions.

#### Findings:

1. The addition non-lakeside will not be visible from the lake.
2. The expansion will not increase the existing setback encroachment.
3. The expansion will not affect ground or surface water.
4. The expansion will have no affect to the land use of the area.
5. The expansion is reasonable based upon the location and configuration of the existing residence.
6. Except for Woodrow Township recommending approval no comments have been received from other agencies notified.
7. Financial consideration is not the sole basis of the application.
8. The request is not a substantial variation from the Land Use Ordinance standards.
9. The addition will not increase the demand or need for increased governmental services.

#### Conditions:

1. The addition shall not exceed 20 feet x 20 feet.
2. The deck enclosure shall not exceed 6 feet x 14 feet.
3. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal facility.
4. ESD must determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
5. No storm water run-off to the lake, to the access road from the approved structure(s), or to adjoining properties is permitted. The approved structure, and any

structure to which the approved structure is attached, if necessary, shall be equipped with gutters to redirect storm water and if needed water retention structures (rain gardens, for example) shall be installed to retain structure run-off and prevent run-off to the lake, the access road, and adjoining properties.

6. Shoreline vegetation/re-vegetation shall be installed and maintained in a buffer area, subject to a 14 feet wide lake access area, as determined by ESD.

7. Applicant consents to inspection of the property from time to time by ESD to verify compliance with all conditions.

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.

Gulbrandson, Cindy & Michael, Woodrow Township, VP10-140-29-4 on property described as Pt of Gov Lots 5 & 6, Section 5-140-29, PID # 51-005-3103 located at 4528 Evergreen Drive NW. An application submitted to expand a non-conforming residence which 85 feet from the lake with an 18 feet x 28 feet addition to be located on the non-lakeside of the structure. The property contains 6.5 acres riparian to Baby Lake (RD). Section 1115.3 B. of the Land Use Ordinance requires that expansion of non-conforming residence only be allowed by variance.

PC members were at the site 04/05/10. 28 notices of the application were mailed. One response, from Woodrow Township recommending approval, was received. The application was reviewed and discussed with the Gulbrandsons.

MS/P Ballenthin/Gardner to approve the application for the expansion of the residence at PID # 51-005-3103 as submitted upon review of Section 805 of the Land Use Ordinance (3/1/09) along with criteria established by court decisions with the following findings and condition.

Findings:

1. The addition will not be visible from the lake.
2. The addition will not affect ground or surface water.
3. The addition will have no affect to the land use of the area.
4. The addition is reasonable based upon the location and configuration of the residence.
5. Except for Woodrow Township recommending approval no comments have been received from agencies or persons notified.
6. Financial consideration is not the sole basis of the application.
7. The request is not a substantial variation from the Land Use Ordinance standards.

8. The addition will not increase the demand or need for increased governmental services.

Conditions:

1. The addition shall not exceed 18 feet x 28 feet.
2. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal facility.
3. ESD must determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
4. No storm water run-off to the lake, to the access road from the approved structure(s), or to adjoining properties is permitted. The approved structure, and any structure to which the approved structure is attached, if necessary, shall be equipped with gutters to redirect storm water and if needed water retention structures (rain gardens, for example) shall be installed to retain structure run-off and prevent run-off to the lake, the access road, and adjoining properties.
5. Shore vegetation/re-vegetation shall be installed and maintained in a buffer area, subject to a 14-foot wide lake access area as determined by ESD.
6. Deposit of financial assurance with ESD in the amount of \$1 per square foot of the buffer area for no-mow plus \$3 per square foot for all other vegetative buffers or if less, 125% of the cost estimate.

Any financial assurance shall be returned to the applicant upon a schedule approved by ESD, and in all events upon substantial implementation of the plan, as determined by ESD. Requirements of the approved plan for vegetation not completed in accordance with the schedule will be installed at the direction of ESD and charged against the financial assurance.

7. Applicant consents to inspection of the property from time to time by ESD to verify compliance with all conditions.

**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.**

Heinen, John & Maryanne, Crooked Lake Township, VP10-139-26-3 on property described as rev Desct 1 of Lot 6, "Pines A Plenty on Lake Washburn", Section 17-139-26, PID # 12-432-0061

located at 1446 Plummer Point Road NE. An application submitted to occupy more than the maximum width allowed by shoreland alteration permit for lake access for a residential lot. The applicant's boathouse and stairway currently occupy 18 feet. The applicant proposes to construct a 16 feet wide beach sand area above the ordinary high water level (OHWL). The property contains 3.05 acres riparian to Lake Washburn (GD). Section 1106.4 C.2. of the Land Use Ordinance allows for alteration site per lot with a maximum width of 14 feet.

PC members were at the site 04/05/10. 41 notices of the application were mailed. Two responses both opposed to the application were received. The application was reviewed with the applicant's representative Mr. Ruyak.

MS/P Gould/Weber to deny the application an increase over the amount and width for lake access allowed by permit for PID # 12-432-0061 upon review of Section 805 of the Land Use Ordinance (3/1/09) with the following findings.

Findings:

1. The property already contains more than the maximum 14 feet width and area allowed for lake access.
2. Current lake access width and area does not restrict or limit the applicants' ability to reasonably reach the lake and utilize their property.
3. The proposed excavation for additional access width and area would result in substantial disturbance to natural landscape of the property which conflicts with the comprehensive plan's intent to preserve the natural environment along shoreline.

Johnson, Jared & Michelle, Thunder Lake Township, VP10-140-26-1 on property described as Lot 6, Blk 3, "Thunder Echoes", Section 10-140-26, PID # 42-389-0330 which is located along Shad Rap Trail NE. An application submitted to construct a 26 feet x 34 feet residence to be located 19 feet from the top of a bluff along with an 8 feet x 44 feet deck that would be located 11 feet from the top of a bluff. The property contains 1.39 acres riparian to Thunder Lake (GD). Section 1126.1 B. of the Land Use Ordinance requires a structure to be setback 30 feet from the top or toe of a bluff.

BOA members were at the site 04/05/10. 52 notices of the application were mailed. Two responses objection to the application were was received. The application was discussed and reviewed with the Johnsons.

MS/P Gould/Ballenthin to approve the location of the residence to be located at PID # 42-389-0330 upon review of Section 805 of the Land Use Ordinance (3/1/09) along with criteria established by court decisions with the following findings and conditions.

#### Findings:

1. The residence/deck at a closer bluff setback still will not be visible from the lake.
2. The residence/deck at a closer bluff setback will not affect ground or surface water.
3. The residence/deck at a closer bluff setback will have no affect to area land use.
4. The residence/deck at a closer bluff setback is reasonable based upon the configuration and topography of the lot.
5. No comments were received from Thunder Lake Township and agencies notified.
6. Financial consideration is not the sole basis of the application.
7. The request is not a substantial variation from the Land Use Ordinance standards.
8. Approval of the bluff setback will not increase the demand or need for additional government services.

#### Conditions:

1. The residence/deck shall not be less than 11 feet from the top of the bluff.
2. The residence dimensions shall not exceed those shown on the site plan dated received 03/22/10.
3. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal facility.
4. ESD must determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
5. No storm water run-off to the lake, to the access road from the approved structure(s), or to adjoining properties is permitted. The approved structure, and any structure to which the approved structure is attached, if necessary, shall be equipped with gutters to redirect storm water and if needed water retention structures (rain gardens, for example) shall be installed to retain structure run-off and prevent run-off to the lake, the access road, and adjoining properties.
6. Shore vegetation/re-vegetation shall be installed and maintained in a buffer area, subject to a 14-foot wide lake access area as determined by ESD as follows: The applicant shall develop a plan for vegetation, a schedule for implementation, and a good faith, reasonable estimate of the cost to implement the vegetation plan, all of which shall be approved by ESD.

No permit to build the approved structures shall be issued until the earlier of the following, at applicant's option is selected.

7. Completion of substantial implementation of the vegetation plan, as determined by ESD.
8. Deposit of financial assurance with ESD in the amount of \$1 per square



foot of the buffer area for no-mow plus \$3 per square foot for all other vegetative buffers or if less, 125% of the cost estimate.

Any financial assurance shall be returned to the applicant upon a schedule approved by ESD, and in all events upon substantial implementation of the plan, as determined by ESD. Requirements of the approved plan for vegetation not completed in accordance with the schedule will be installed at the direction of ESD and charged against the financial assurance.

9. Applicant consents to inspection of the property from time to time by ESD to verify compliance with all conditions.

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.

Manson, Brad & Teresa, Fairview Township, VP10-134-30-1 on property described as SE SE, Section 21-134-30, PID # 14-121-4400 located at 3381 Beauty Lake Road SW. An application submitted to replace an existing 18 feet x 22 feet residence with a 30 feet x 32 feet residence at the same setback from the lake which varies from 56 feet to 65 feet and be allowed to construct a 30 feet x 30 feet accessory/storage structure located 88 feet from the lake and 12 feet from the driving surface of Beauty Lake Road. In addition, the applicants request to be allowed to retain, "after the fact", an existing 18 feet x 20 feet x 7 feet unattached deck located 15 feet from the lake. The property contains 39.98 acres riparian to Beauty Lake (NE). Section 1126.1. A. of the Land Use Ordinance requires structures to be located at least 150 feet from a lake classified Natural Environment (NE). Section 1126.1 B. requires structures to be setback 20 feet from the right-of-way of a township road, dedicated public road or other public roads not classified.

Consideration of this application was tabled during the 03/09/10 meeting in order for the applicants to submit a revised site plan. PC members were at the site 03/02/10. 15 notices of the application were mailed for each meeting. Two responses of no objection were received in response to the mailing for the 03/09/10 meeting. In addition, correspondence was received from Fairview Township in response to the 03/09/10 meeting mailing recommending approval of the residence setback along with comments in regard to the location of the deck and proposed storage building. The application was discussed and reviewed with Mansons and their contractor Mr. Rasinski.

MS/P Ballenthin/Weber to approve the application for the residence and accessory structure to be located upon PID # 14-121-4400 upon review of Section 805 of the Land Use Ordinance

(3/1/09) along with criteria established by court decisions with the following findings and conditions.

#### Findings:

1. The residence location has not affected ground or surface water.
2. The residence location has had no affect to the area land use.
3. The residence location is reasonable based upon the configuration of the useable area of the property.
4. The parcel depth of 90 feet to 140 feet results in no area to comply with right-of-way and lake setbacks.
5. Fairview Township has recommended approval along with conditions that the deck location be altered and the accessory/structure be located 30 feet from Beauty Lake Road
6. Except for one response from an owner with no objection, no other comments were received from agencies or persons notified.
7. Financial consideration is not the sole basis of the application.
8. The request is not a substantial variation from the Land Use Ordinance standards.
9. Approval of the residence location will not cause the need or demand for increased government services.
10. A variance for a free standing deck is denied, and the existing free standing deck must be removed promptly, and in no case later than 06/10/10. Applicants have reasonable use of the property without the free-standing deck. A variance for the free standing deck would alter the essential character of the locality by placing an artificial structure over-hanging a natural bank on a Natural Environment lake. Applicants apparently acted in ignorance of legal requirements in constructing the free-standing deck; applicants did not request a permit for the free-standing deck from any authority. The investment in the free-standing deck is not substantial and the deck surface may be reused to provide a platform or patio above the bank in accordance with Section 1126.7 A. and B. The free-standing deck was completed before the applicant was informed on the impropriety. The property is residential. There are no other similar structures on the lake which were observed. Financial considerations are not the sole reason for the variance.

#### Conditions:

1. The residence shall not exceed 30 feet x 32 feet and shall not be closer to the lake than the structure to be removed.
2. The accessory/storage structure shall not exceed 30 feet x 30 feet and shall not less than 88 feet from the lake and not less than 14 feet from the driving surface of

the road.

3. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal facility.
4. ESD must determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
5. No storm water run-off to the lake, to the access road from the approved structure(s), or to adjoining properties is permitted. The approved structure and any structure to which the approved structure is attached, if necessary, shall be equipped with gutters to redirect storm water and if needed water retention structures (rain gardens, for example) shall be installed to retain structure run-off and prevent run-off to the lake, the access road, and adjoining properties.
6. The existing outhouse which is non-compliant shall be reconstructed or removed by 09/01/11.
7. The new residence shall not be occupied until installation of a SSTS.
8. Shore vegetation/re-vegetation shall be installed and maintained in a buffer area extending from the water line of Beauty Lake to a line extending 10 feet landward from the top of the bank and with a water line width to the extent that native vegetation has been disturbed, subject to a 14-foot wide lake access area. The buffer area shall include the entire distance from the retaining wall and the shoreline. The applicant shall develop a plan for vegetation, a schedule for implementation, and a good faith, reasonable estimate of the cost to implement the vegetation plan, all of which shall be approved by ESD.

No permit to build the approved structures shall be issued until the earlier of the following, at applicant's option is selected.

9. Completion of substantial implementation of the vegetation plan, as determined by ESD.
10. Deposit of financial assurance with ESD in the amount of \$1 per square foot of the buffer area for no-mow plus \$3 per square foot for all other vegetative buffers, or if less, 125% of the cost estimate.

Any financial assurance shall be returned to the applicant upon a schedule approved by ESD, and in all events upon substantial implementation of the plan, as determined by ESD. Requirements of the approved plan for vegetation not completed in accordance with the schedule will be installed at the direction of ESD and charged against the financial assurance.

11. A boulder retaining wall may be constructed as shown on the site dard received

03/18/10. A Shoreline Alteration Permit authorizing any fill and the boulder wall. The vegetative buffer condition stated above shall include vegetation extending the entire distance from the boulder retaining wall to the lake.

12. The patio and walkway to the lake shall be located as shown on the site plan dated received 03/18/10 and must be constructed of pervious materials.

13. Applicant consents to inspection of the property from time to time by ESD to verify compliance with all conditions.

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.

Moser, Thomas, Crooked Lake Township, VP10-134-30-1 on property described as Rev Desct of Gov Lot 1, Section 26-139-26, PID # 12-026-2213 located at 718 State 6 NE. An application submitted to replace an existing 36 feet x 44 feet residence, including decks, with new construction of a 30 feet x 40 feet residence, an attached 18 feet x 22 feet garage and attached deck located at less than 30 feet from the top of a bluff. The property contains .9 acres riparian to Lake Roosevelt (GD). Section 1126.1. B. of the Land Use Ordinance requires structures to be located at least 30 feet from the top or toe of a bluff.

Consideration of this application was tabled during the 03/09/10 meeting in order for the applicant to submit a revised site and for the members to conduct another site visit. PC members were at the site 03/02/10 and 04/05/10. 58 notices of the application were mailed for each meeting. One response objecting to approval of the application was received in response to the 03/09/10 meeting notice along with one response from the 04/12/10 meeting notice which offered no objection to the application. The application was discussed and reviewed with the Mosers.

MS/P Ballenthin/Gardner to approve the application for the location of a residence for PID # 12-026-2213 upon review of Section 805 of the Land Use Ordinance (3/1/09) along with criteria established by court decisions with the following findings and conditions.

Findings:

1. The lot was established and the existing residence constructed prior to the adoption of bluff setback standards.
2. The top of the bluff, already altered by excavation for the existing residence, extends from north to south along the rear of existing residence.
3. Less disruption to the property will occur if the existing excavated area is utilized.
4. The residence location has not affected ground or surface water.

5. The residence location has had no affect to area land use.
6. The residence location is reasonable based upon the configuration and topography of the lot.
7. No comments were received from Crooked Lake Township or agencies notified.
8. Financial consideration is not the sole basis of the application.
9. The request is not a substantial variation from the Land Use Ordinance standards.
10. Approval of the residence location will not affect the demand or need for government services.

Conditions:

1. The residence/garage/deck footprint shall not exceed the dimensions from the site plan dated received 03/18/10 and shall not be closer to the lake than the existing setback.
2. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal facility.
3. ESD must determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
4. No storm water run-off to the lake, to the access road from the approved structure(s), or to adjoining properties is permitted. The approved structure, and any structure to which the approved structure is attached, if necessary, shall be equipped with gutters to redirect storm water and if needed water retention structures (rain gardens, for example) shall be installed to retain structure run-off and prevent run-off to the lake, the access road, and adjoining properties.
5. Shore vegetation/re-vegetation shall be installed and maintained in a buffer area, subject to a 14-foot wide lake access area as determined by ESD as follows: The applicant shall develop a plan for vegetation, a schedule for implementation, and a good faith, reasonable estimate of the cost to implement the vegetation plan, all of which shall be approved by ESD.

No permit to build the approved structures shall be issued until the earlier of the following, at applicant's option is selected.

6. Completion of substantial implementation of the vegetation plan, as determined by ESD.
7. Deposit of financial assurance with ESD in the amount of \$1 per square foot of the buffer area for no-mow plus \$3 per square foot for all other vegetative buffers or if less, 125% of the cost estimate.

Any financial assurance shall be returned to the applicant upon a schedule approved by ESD, and in all events upon substantial implementation of the plan,

as determined by ESD. Requirements of the approved plan for vegetation not completed in accordance with the schedule will be installed at the direction of ESD and charged against the financial assurance.

8. Applicant consents to inspection of the property from time to time by ESD to verify compliance with all conditions.

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.

Zachary, Mavis, Fairview Township, VP10-134-30-3 property described as Lot 10, Blk 1, "Pine Song", Section 13-134-30, PID # 14-400-0150 located at 10548 Pine Song Drive SW. An application submitted to expand an existing non-conforming residence located at less than the required bluff setback by enclosing an 8 feet x 19 feet patio area which is considered an addition. The property contains .79 acres riparian, by easement, to Gull Lake (GD). Section 1115.3.B. of the Land Use Ordinance requires a variance in order to expand a non-conforming primary residence.

PC members were at the site 04/05/10. 38 notices of the application with no written responses received. Representative from Fairview Township were in attendance and stated that the township had objection to approval of the application. The application was reviewed and discussed with Ms. Zachary.

MS/P Moore/Weber to approve the application for the expansion of the residence located at PID # 14-469-0050 as submitted upon review of Section 805 of the Land Use Ordinance (3/1/09) along with criteria established by court decisions with the following findings and condition.

Findings:

1. The area of enclosure will not be visible from the lake due to the steep bluff.
2. The expansion will not affect ground or surface water.
3. The expansion will have no affect to area land use.
4. The expansion will not increase the existing setback encroachment.
5. The residence was constructed prior to the enforcement of the bluff standards.
6. Other than Fairview Township's recommendation of approval no comments were received form agencies or persons notified.
7. Financial consideration is not the sole basis of the application.
8. The request is not a substantial variation from the Land Use Ordinance standards.
9. Approval of the expansion will not increase the need or demand for government services.

Condition:

1. The expansion shall not exceed 8 feet x 19.

Conditional Use Permit

Dybevik, Jerry & Theresa, Fairview Township, CU10-134-30-1 on property described as Pt of Govt Lot 4 & Pt of SE SW (Tract C), Section 19-134-30, PID # 14-119-3001 located at 4400 112th St SW. An application submitted to conduct home business consisting of the retail sales of candles crafted on the property. The property contains 4.59 acres located within the non-shoreland area (AF). Section 1110 of the Land Use Ordinance requires that the primary residence be occupied by the business owner and requires that a conditional use permit (CUP) be obtained if the business activity is conducted outside the primary residence or within structures other than the primary residence.

PC members were at the site 04/05/10. 31 notices of the application with no written responses received. Representative from Fairview Township were in attendance and stated that the township had objection to approval of the application. The application was reviewed and discussed with Ms. Zachary.

MS/P Moore/Fitch to approve the application to establish a home business located at PID # 14-119-3001 as submitted upon review of Sections 704.02 and 1110 of the Land Use Ordinance (3/1/09) with the following findings and conditions.

Findings:

1. The home business activity will not increase traffic along CSAH # 34.
2. The home business activity will not be disruptive to the neighborhood.
3. No wetland or critical habitat will be affected by the home business activity.
4. No scenic or historic features will be affected by the home business activity.
5. The home business activity will have no affect to public health, safety or welfare.
6. The home business activity will not alter area land use.
7. The home business activity will not require additional public infrastructure.
8. Other than Fairview Township's recommendation of approval no comments were received form agencies or persons notified.

Condition:

1. The home occupation activity shall be restricted to retail sale of candles and jewelry crafted on the property and accessories incidental to sales of the same.

## Other Business

1. Request from Kathleen Sweeny to reconsider her application for variance (VP10-141-27-1) which was approved during the 03/08/10 meeting. Ms. Sweeny requests that the 03/08/10 approval be reconsidered and modified upon review of her revised plan to expand the non-conforming residence due to practical difficulties created by the kitchen/dining area configuration of the residence. VP10-141-27-1 was approved to allow for a 5 feet x 12 feet expansion of the residence. The residence varies from 35 feet to 43 feet from the lake. The property contains .79 acres riparian to Lake Inguadona (GD).

MS/P Ballenthin/Moore to table consideration of the request until the 05/10/10 meeting in order for Ms. Sweeny to submit a revised site plan containing with structure dimensions and lake setback distances.

2. Review and adopt proposed Rules of Business.

MS/P Moore/Gardner to adopt the Rules of Business with revision as noted by Jim Ballenthin to refer to as PC/BOA.

3. Discuss and review "resort" to evaluate and determine the need to develop possible amendments to the Land Use Ordinance and the Environmental Definitions Ordinance.

MS/P Ballenthin/Weber to establish a PC Committee consisting of Ballenthin, Gardner and Moore to review Section 1104.9 of the Land Use Ordinance with ESD staff and interested parties in order to determine consistency with state rules along with the current state of the resort industry and report for the PC for possible revision recommendations to the County Board.

MS/P Moore/Gardner at 3:10 p.m., to adjourn.

Paul Z. Fairbanks