



Cass County  
Planning Commission

August 9, 2010

The Cass County Planning Commission conducted a regular meeting Monday, August 9, 2010 in the meeting room of the Cass County Land Department in Backus. The field inspection was conducted Monday, August 2, 2010.

Sundberg called the meeting to order at 10:04 a.m.

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

Staff Present: Berg and Fairbanks.

Citizens Present: Jack Abrahamson, Gene Alderson, Julie Aldridge, Duane Anderson, Martin Anderson, Sue Anderson, Kristin Billman, Cathy Brunkow, Jim Dowson, Thomas Emery, Bonnie Hinniker, William Honer, Allan Glad, Mary Glad, Pat Humphrey, Gary Johnson, Larry Johnson, Teresa Johnson, Greg Jones, Bev Joslyn, Bill Joslyn, Darold Landon, Dennis King, Mona King, Kathy Landon, Dorothy Lodge, Brian Malloy, Cindy Miller, Nancy Nelson Mark Raabe, Sue Schaefer, David Schaumberg, Gary Severson, Emerson Stahl, Neoma Stahl, Ron Stokesbary, Dan Surma, Linda Thorson, Ken Walters, Nancy Wegner, Reno Wells, Norm Wieland, Kris Wilson, Jim Wilson, Gary White, Marilyn White and Vivian Youngbird.

MS/P Moore/Fitch to approve the minutes of the 07/12/10 regular Planning Commission meeting as amended.

#### Variance

Brunkow, Catherine & Gary, Shingobee Township, VP10-141-31-4 on property described as Pt of Gov Lots 3 & 4 & SE SW, Section 7-141-31, PID # 38-007-3300 located at 6450 73<sup>rd</sup> Ave NW. An application submitted to construct a 2,944 square feet residence to be located 90 feet from the lake and to relocate to 125 feet from the lake the existing 980 square feet residence for use as a guest house. The property contains 102.62 acres riparian to Lake Alice (NE). Section 1126.1 A. of the Land Use Ordinance requires structures to be located 150 feet from lakes classified Natural Environment (NE).

PC members were at the site 08/02/10. 51 notices of the variance application were mailed with no responses received. The application was reviewed with Cathy Brunkow.

MS/P Gould/Gardner to deny the application for closer lake setback for a primary residence and guest house to be located upon 38-007-3300 upon review of Section 800 of the Land Use Ordinance (01/10/10) with the following findings.

Findings:

1. No practical difficulty can be established that demonstrates the necessity to locate the primary residence and the guest house at less than the required setback in order for the applicants to have reasonable use and enjoyment of their property.
2. The location of the structures at 150 feet poses no particular burden that would inhibit or restrict the applicants use and enjoyment of their property.
3. The property contains 102 acres with 1,300 feet of shoreline which provides numerous locations that allow for placement of the residence and guest house and the required lake setback while retaining all reasonable riparian rights.
4. The request is a substantial variation from the requirement of the Land Use Ordinance because the Ordinance requires a 150 feet setback and the request is for 90 feet for the primary residence and 125 feet for the guest house.
5. The request will not have an adverse effect on government services because the property is currently used as a residential home site and the proposed use is a residential home site.
6. The request if approved will cause a substantial change in the character of the neighborhood and will result in a substantial detriment to neighboring properties because natural shoreline development within the 150 feet setback area will negatively impact the natural environment character of Lake Alice.
7. The need for variance was created by the applicants because the property currently has a suitable residence which may be maintained at the current non-conforming setback.

Johnson, Gary & Susan, Kego Township, VP10-141-28-2 on property described as Lot 4, "Blairs Pine Gables", Section 33-141-28, PID # 19-477-0040 located at 4918 Barclay Drive NE. An application submitted to expand a non-conforming residence with an 18 feet x 18 feet addition and a 4 feet x 42 feet x 18 feet x 18 feet x 18 feet L shaped deck. The residence is non-conforming because it is located 67 feet from the lake. The proposed deck will be to the side of the residence and the addition will be located on the non-lakeside of the residence. The property contains .57 acres riparian to Girl Lake (RD). Section 1115.3 B. of the Land Use Ordinance allows for the expansion of a non-conforming residence only by variance.

PC members were at the site 08/02/10. 52 notices of the variance application were mailed. No responses were received. The applicants were present to review and discuss their application.

MS/P Gould/Gardner to approve the application to expand the residence located at PID # 19-477-0040 upon review of Section 800 of the Land Use Ordinance (01/10/10) along with criteria established by court decisions with the following findings and conditions.

#### Findings:

1. The lot was created in 1969 and the residence was constructed at less than the current lake setback prior to the adoption of land use regulation.
2. The residence expansion will be non-lakeside and not visible from the lake.
3. The deck expansion will be non-lakeside with a walk-way connection to the existing lakeside deck but will not increase encroachment to the lake.
4. The addition/deck will not affect ground or surface water because run-off and erosion control best management construction and post construction practices must be implemented.
5. The addition/deck will not affect area land use because similar style and construction is utilized throughout the surrounding area and Girl Lake neighborhood and because it will mostly not be visible from the water.
6. The location and size of the addition/deck is reasonable based upon the location and size of the residence.
7. There is no evidence that financial consideration is the sole reason for the variance.
8. No comments were received from Kego Township, agencies or persons notified.
9. The addition/deck will have no bearing to the need or demand for governmental services because the property already has direct access to a township road and is not connected to municipal or community waste water treatment system.

#### Conditions:

1. The addition shall not exceed 18 feet x 20 feet with overhang/eave not to exceed two feet on the non-lakeside of the residence.
2. The deck expansion shall not exceed 18 feet x 20 feet non-lakeside of the residence.
3. The walkway connection to the lake side deck shall not exceed 4 feet x 32 feet and not extend closer to the lake than the existing lakeside deck.
4. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal facility.
5. 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.
6. No storm water run-off to the lake, to the access road from the approved structure(s), or to adjoining properties is permitted. Gutters shall be installed to direct water run-off to the sides of the structure and away from the shore and if needed to water retention structures such as rain gardens.
7. Shore vegetation/re-vegetation shall be installed and maintained in a buffer area from the shore to a line roughly parallel to the shore as extended between the small red pine tree and the small birch tree landward subject to a 14 foot wide access unless ESD specifically determines another defined area more appropriate for re-vegetation. 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.

8. Completion of substantial implementation of the vegetation plan, as determined by ESD.
9. 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.

10. 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.

Landon, Darold & Katherine, Woodrow Township on property described as Lots 3 & 4, Blk 2, "Minne Teepee Portage", Section 22-140-29, PID # 51-452-0215 located at 3505 8th Ave NW. An application submitted to construct 14 feet x 32 feet deck to a residence located 75 feet from the lake which reduce the setback encroachment to 61 feet from the lake. The property contains .4 acre riparian to Woman Lake (GD). Section 1126.1 A. of the Land Use Ordinance requires structures to be located 75 feet from a lake classified General Development (GD).

PC members were at the site 08/02/10. 34 notices of the variance application were mailed. One response from Woodrow Township that recommends that the application be denied was received. The applicants were present to review and discuss their application.

MS/P Ballenthin/Gould/Gardner-Abstain to deny the application for a lakeside deck for the residence at PID # 51-452-0215 upon review of Section 800 of the Land Use Ordinance (01/10/10) with the following findings.

Findings:

1. No practical difficulty can be established that demonstrates the necessity to construct a deck at less than the required setback in order for the applicants to have reasonable use and enjoyment of their property.
2. The request is a substantial variation from the requirement of the Land Use Ordinance because the Ordinance requires a 75 feet setback and the request is for 61 feet.
3. The request will not have an adverse effect on government services because the property is currently used as a residential home site and will remain as a residential home site requiring no additional governmental services.

4. The request if approved will cause a substantial change in the character of the neighborhood or will result in a substantial detriment to neighboring properties because the intent of the Land Use Ordinance is to require, unless unreasonable, consistent development of the lake shore at not less than the required setback to enhance the quality of the shoreland setback area, protect the quality of the lake and protect and enhance the value of all properties on Woman Lake.
5. The need for variance was created by the applicants because the property currently has a suitable residence which may be expanded at the current setback.

Malloy, Brian & Katherine, Woodrow Township on property described as Lots 5 & 6, Blk 2, "Minne Teepee Portage", Section 22-140-29, PID # 51-452-0220 located at 3491 8<sup>th</sup> Ave NW. An application submitted to expand a non-conforming residence with a 16 feet x 32 feet addition to be located 70 feet from the lake. The residence is non-conforming because it is located less than the required 75 feet from the lake. The property contains .55 acres riparian to Woman Lake (GD). Section 1115.3 B. of the Land Use Ordinance allows for the expansion of a non-conforming residence only by variance.

PC Members were at the site 08/02/10. 40 notices of the application were mailed. One response from Woodrow Township that recommended approval of the application was received. The applicants appeared to review and discuss their proposal.

MS/P Ballenthin/Moore/Gardner-Abstain to approve the addition and deck expansion for the residence located at PID # 51-452-0220 as submitted upon review of Section 800 of the Land Use Ordinance (01/10/10) along with criteria established by court decisions with the following findings and conditions.

#### Findings:

1. The lot was platted in 1923 with no record of when the residence, which is 70 feet from lake, was constructed.
2. The addition/deck will not affect ground or surface water because run-off and erosion control best management construction and post construction practices must be implemented.
3. The addition/deck will not affect area land use because similar construction and style is utilized along 8<sup>th</sup> Ave. and common to the Woman Lake area.
4. The location addition/deck is reasonable based upon the size and configuration of the lot, the location of the residence and it will be no closer to the lake than the current setback of the residence.
6. There is no evidence that financial consideration is the sole basis of the application.
7. Other than Woodrow Township which recommended approval, no comments have been received from any agency or person notified.
8. The residence will have no bearing to the need the need or demand for governmental services because the road is not maintained by a governmental unit nor will it be connected to municipal or community waste water treatment system.

Conditions:

1. The addition shall not 16 feet x 32 feet with overhang/eave not to exceed 2 feet no closer to the lake than the residence.
2. The deck expansion shall not exceed 4 feet x 4 feet to the lakeside of the addition not closer to the lake than the existing deck and shall be built on piers.
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 such as rain gardens shall be installed to retain structure run-off and prevent run-off to the lake, the access road, and adjoining properties.
6. The existing shoreline vegetation shall not be altered except as allowed by Shoreland Alteration Permit.
7. Applicants consent 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.

Nelson, Donald & Nancy, Thunder Lake Township on property described as Lot 1, Blk 1, "Bass Lake Highlands", Section 27-140-26, and PID # 42-446-0110 located at 2859 Rapala Drive NW. An application submitted to expand a non-conforming residence with a 10 feet x 16 feet addition to be located 92 feet from the lake. The residence is non-conforming because it is located less than the required 100 feet from the lake and less than 30 feet from the top of a bluff. The property contains 1.66 acres riparian to Bass Lake (RD). Section 1115.3 B. of the Land Use Ordinance allows for the expansion of a non-conforming residence only by variance.

PC members were at the site 08/02/10. 33 notices of the application were mailed. Five responses all supporting approval of the application were received. The application was reviewed with the Nelsons' contractor Jay Riffle.

MS/P Ballenthin/Gardner to approve the expansion of the residence located at PID # 42-446-0110 as submitted upon review of Section 800 of the Land Use Ordinance (01/10/10) along with criteria established by court decisions with the following findings and conditions.

#### Findings:

1. The residence was constructed in 1993 prior to the enforcement of bluff setback requirements.
2. According to ZP93-140-26-5 the residence was permitted and constructed at its current location and setback.
3. The enclosure addition will enclose a portion of the existing deck and not increase the setback encroachment to the lake.
4. The enclosure addition will not affect ground or surface water because run-off and erosion control best management construction and post construction practices must be implemented.
4. The enclosure addition will not affect area land use because similar style and construction is utilized throughout the Bass Lake area.
5. There is no evidence that financial consideration is the sole basis of the application.
6. No comments were received from Thunder Lake Township or agencies notified.
7. All comments received from persons notified support approval of the application.
8. The enclosure addition will have no bearing to the need the need or demand for governmental services because the road is not maintained by a governmental unit and it is not connected to municipal or community waste water treatment system.

#### Conditions:

1. The enclosure of deck area shall not exceed 10 feet x 16 feet with overhang/eave not to exceed 2 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 such as rain gardens shall be installed to retain structure run-off and prevent run-off to the lake, the access road, and adjoining properties.
5. The existing shore vegetation shall not be altered except as allowed by Shoreland Alteration Permit.
6. Applicants consent 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.

Raabe, Jean & Mark, Wabedo Township on property described as 150' N & S from NW Corner of SW  $\frac{1}{2}$  of Gov Lot 4, Sec 17-140-28, PID # 46-017-4303 located at 3621 State 84 NW. An

application submitted to expand a non-conforming residence with a 5 feet x 35 feet addition which will be located less than 30 feet from the top of a bluff. A bluff is a topographic feature located either part or fully within the shoreland area and having the following characteristics; the slope rises at least 25 feet vertically above the toe of the bluff, the grade of the slope from toe of the bluff to a point 25 feet or more above the toe of the bluff averages 30% or greater and the slope drains toward public waters. The property contains 2.46 acres riparian to Woman Lake (GD). Section 1126.1 B. of the Land Use Ordinance requires structures to be located 30 feet from the top or toe of a bluff.

PC members were at the site 08/02/10. 38 notices of the application were mailed. One response from Wabedo Township recommending approval of the application was received. The application was reviewed with Mr. Raabe and Mr. MacDonald.

MS/P Ballenthin/Gardner to approve the expansion of the residence located at PID # 46-017-4303 as submitted upon review of Section 800 of the Land Use Ordinance (01/10/10) along with criteria established by court decisions with the following findings and conditions.

#### Findings:

1. The lot was created in 1968 and the residence constructed prior to the adoption land use administration.
2. The residence is unique and estimated to have been constructed 100 years ago.
3. The addition will not be visible from the lake.
4. The addition will not affect ground or surface water because run-off and erosion control best management construction and post construction practices must be implemented.
5. The addition will not affect area land use because it will not be visible from the lake, neighboring property or TH # 84.
6. There is no evidence that financial consideration is the sole basis of the application.
7. The only comment received, from Wabedo Township, recommends approval.
8. The expansion of the residence will have no bearing to the need the need or demand for governmental services because the property does not require improved access from TH # 84 and it is not be connected to municipal or community waste water treatment system.

#### Conditions:

1. The expansion must utilize a pier foundation and shall not exceed 5 feet x 35 feet with overhang/eave not to exceed 2 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 such as rain gardens shall be installed to retain structure run-off and prevent run-off to the lake, the access road, and adjoining properties.

5. The existing shore vegetation shall not be altered except as allowed by Shoreland Alteration Permit.

6. Applicants consent 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.

Schaefer, Matthew & Susan, Crooked Lake Township on property described as Lot 3, "Smokey Hollow Addition", Sec 34-139-26, PID # 12-509-0030 located at 6289 Smokey Hollow Road NE. An application submitted to remove an existing 792 square feet residence located 62 feet from the lake and replace with new construction of a 1,937 square feet residence/attached garage to be located 82 feet from the lake. The property contains 2.6 acres riparian to Smokey Hollow Lake (RD). Section 1126.1 A. of the Land Use Ordinance requires structures to be located 100 feet from a lake classified Recreational Development (RD).

PC members were at the site 08/02/10. 45 notices of the application were mailed. One response, a petition from ten neighboring property owners, supporting approval of the application was received. The application was reviewed with the Schaefers and their contractor. Discussion included width of the proposed deck, platform and patio options along with the location of the bluff setback as it relates to the house location.

MS/P Moore/Ballenthin - Ballenthin-Yes, Bliss-No, Fitch-Yes, Gardner-Yes, Gould-No, Moore-Yes to deny the variance request for closer residence lake setback for PID # 12-509-0030 upon review of Section 805 of the Land Use Ordinance (01/10/10) with the following findings.

Findings:

1. No practical difficulty can be established that demonstrates the necessity to construct the residence at less than the required lake setback in order for the applicants to have reasonable use and enjoyment of their property.
2. The request is a substantial variation from the requirement of the Land Use Ordinance because the Ordinance requires a 100 feet setback and the request is for 82 feet.
3. The request will not have an adverse effect on government services because the property is currently used as a residential home site and will remain as a residential home site requiring no additional governmental services.
4. The request if approved will cause a substantial change in the character of the neighborhood or will result in a substantial detriment to neighboring properties because the intent of the Land Use Ordinance is to require, unless unreasonable, consistent development of the lake shore at not less than the required setback to enhance the quality of the shoreland setback area,

protect the quality of the lake and protect and enhance the value of all properties o Woman Lake.

5. There is another feasible method to alleviate the need for a variance because the residence may built at the required setback while retaining all reasonable riparian rights, the deck may built along the side of the residence at or beyond the required lake setback and because the construction of a platform or patio within the lake setback area which would reasonably provide the applicants with outdoor living space.

6. The need for variance was created by the applicants because the applicant is proposing to tear down the existing 792 square feet residence and construct a 1,937 square feet when the applicants may be rebuild the existing residence at the same footprint and volume without a variance.

Up North Renovations, Cynthia Miller, President, Crooked Lake Township on property owned by Cynthia & Martin English described as Pt of Gov Lot 1, Sec 26-139-26, PID # 12-026-221 located at 748 State 6. An application submitted to be allowed lake access for a new non-riparian lot. The proposed new non-riparian lot would contain one acre. The existing property contains 2.25 acres riparian to Lake Roosevelt (GD). Section 1113.4 C. of the Land Use Ordinance prohibits easement to non-riparian lot owners to access public waters.

PC members were at the site 08/02/10. 61 notices of the application were mailed. One response objecting to the approval of the application was received. The proposal was discussed and reviewed with the applicants.

MS/P Gould/Moore to table consideration of the application in order for the applicants to consider revising their application to attach the area being considered to their adjacent property and apply for a conditional use permit for reclassification of the property along with establishing a home business.

Wilson, James & Kristie, Thunder Lake Township on property described as Lots 3, Blk 3, "Del Ray Point", Section 16-140-26, and PID # 42-409-0320 located at 3926 E Delray Trail NE. An application submitted to remove existing residence and boathouse with new construction of a 704 square feet residence to be located 25 feet from the lake and 7 feet from the closest property boundary line and to construct an 865 square feet garage to be located 7 feet from the nearest property boundary line. The property contains .32 acre riparian to Thunder Lake (GD). Section 1126. 1 A. of the Land Use Ordinance requires structures to be located 75 feet from a lake classified General Development (GD). Section 1126. 1 B. of the Land Use Ordinance requires structures to be located 10 feet from a property boundary line.

PC members were at the site 08/02/10. 27 notices of the application were mailed. Two responses objecting to approval of the application were received in time to present at the meeting. Ms. Wilson and the applicant's architect were present to discuss and review the application. Mr. Severson submitted a revised site plan explaining that the revised site plan calls for moving the proposed residence away from the lake to the area requested by the

members during the site visit along with centering on the lot so that variance to boundary line setback is no longer required.

MS/P Fitch/Ballenthin to approve the location and footprint at less than the required lake setback for at PID # 42-409-0320 as revised upon review of Section 800 of the Land Use Ordinance (01/10/10) along with criteria established by court decisions with the following findings and conditions.

Findings:

1. The lot was created in 1949 prior to the adoption of land use regulation, does not comply with current minimum lot size requirements and lacks depth for the residence and garage to comply with lake and platted road setback requirements.
2. The residence and garage will not affect ground or surface water because run-off and erosion control best management construction and post construction practices must be implemented.
3. The residence and garage will not affect area land use because similar style and construction is utilized along Del Ray Trail and common to the Thunder Lake area.
4. The location and size of the residence and garage are reasonable based upon the size and configuration of the lot location and size of the residence along with the actual location of E Del Ray Trail.
5. There is no evidence that financial consideration is the sole reason for the variance.
6. Although two comments critical of the application from persons notified, no comments were received from Crooked Lake Township or agencies notified.
7. The residence and garage deck will have no bearing to the need the need or demand for governmental services because the property is not served governmental maintained road is not connected to municipal or community waste water treatment system.

Conditions:

1. The residence and garage shall not exceed the dimensions of the site plan submitted 08/09/10 with overhang/eave not to exceed 2 feet not less than 28 feet from the lake and not less than 10 feet from the closest property boundary line.
2. As offered by the applicants, the existing boat house shall be removed from the property and the existing storage structure shall be moved to a point at least 75 feet from the lake or from the property.
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 such as rain gardens 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 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.

Zajczkowski, Thomas, Leech Lake Township on property described as Lots 2 & Nly  $\frac{1}{2}$  of Lot 3, "Bluebird Point", Section 26-143-31, PID # 20-417-0020 located at 10115 Mounds Point Drive NW. An application submitted to expand a non-conforming residence with an 8 feet x 26 feet breezeway connecting the detached garage and the residence and a 20 feet x 26 feet deck both to be located on the non-lakeside of the residence. The residence is non-conforming because it is located at less than the required lake setback of 75 feet. The property contains .4 acres riparian to Leech Lake (GD). Section 1115.3 B. of the Land Use Ordinance allows for the expansion of a non-conforming residence only by variance.

PC members were at the site 08/02/10. 36 notices of the application were mailed. One response was received. The application was reviewed and discussed with Mr. Zajczkowski's contractor Mr. Johnson.

MS/P Ballenthin/Gould to approve the application for a breezeway and deck as submitted for PID # 20-417-0020 as revised upon review of Section 800 of the Land Use Ordinance (01/10/10) along with criteria established by court decisions with the following findings and conditions.

#### Findings:

1. The lot was created in 1966 prior to the adoption of land use regulation and does not comply with current minimum lot size requirements.
2. The deck and breezeway addition will not be visible from the lake.
3. The deck and breezeway will not affect ground or surface water because run-off and erosion control best management construction and post construction practices must be implemented.
4. The deck and breezeway will not affect area land use because neither will be visible from the lake and not dissimilar in style and construction of structures along Mounds Point Drive.
4. The location and size of the deck and breezeway are reasonable based upon the size and configuration of the residence.
5. There is no evidence that financial consideration is the sole reason for the variance.
6. No comments opposed to approval of the application were received from Leech Lake Township, agencies or persons notified.
7. The deck and breezeway will have no bearing to the need the need or demand for governmental services because the property is not served governmental maintained road is not connected to municipal or community waste water treatment system.

#### Conditions:

1. The breezeway shall not exceed 8 feet x 26 feet with overhang/eave not to exceed 2 feet.
2. The deck shall not exceed 20 feet x 26 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 such as rain gardens 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 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. The plan shall include the re-vegetation of an area of approximately 20 feet extending landward from the shore, subject to a 14 feet wide access path, unless ESD specifically determines another defined area is more appropriate of re-vegetation.
7. No permit to build the approved structures shall be issued until completion of substantial implementation of the vegetative plan, as determined by ESD
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.

Zuehlsdorff, Kenneth, Woodrow Township on property described as Pt of Gov Lots 6, Section 3-140-29, PID # 51-003-3105 located at 1105 46<sup>th</sup> St NW. An application submitted to construct a 28 feet x 30 feet garage to be located at the top of a bluff. A bluff is a topographic feature located either part or fully within the shoreland area and having the following characteristics; the slope rises at least 25 feet vertically above the toe of the bluff, the grade of the slope from toe of the bluff to a point 25 feet or more above the toe of the bluff averages 30 % or greater and the slope drains toward public waters. The property contains 1.3 acres riparian to Mann Lake (RD). Section 1126.1 B. of the Land Use Ordinance requires structures to be located 30 feet from the top or toe of a bluff.

PC members were at the site 08/02/10. 21 notices of the application were mailed. One response offering no objection along with a response from Woodrow Township recommending approval were received. The application was reviewed and discussed with Mr. Zuehlsdorf.

MS/P Ballenthin/Fitch to approve the variance application for a closer bluff setback for an accessory structure PID # 51-003-3105 upon review of Section 800 of the Land Use Ordinance (01/10/10) along with criteria established by court decisions with the following findings and conditions.

#### Findings:

1. The lot was created in 1969 to the adoption land use administration.
2. The garage will not be visible from the lake.
3. The garage will not affect ground or surface water because run-off and erosion control best management construction and post construction practices must be implemented.
4. The garage will not affect area land use because it will not be visible from the lake or neighboring property.
5. There is no evidence that financial consideration is the sole basis of the application.
6. Woodrow Township recommends approval recommending it be further away from the bluff with one other comment from a person notified offering no objection to the location of the garage.
7. The garage will have no bearing to the need the need or demand for governmental services because the property is not served governmental maintained road and is not connected to municipal or community waste water treatment system.
8. The location of the garage is not unreasonable based upon the configuration and contour of the lot.

Conditions:

1. The garage shall not exceed 28 feet x 30 feet with overhang/eave not to exceed two feet not less than five feet from the top of the bluff in the flat area observed during the site visit 08/02/10.
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 such as rain gardens shall be installed to retain structure run-off and prevent run-off to the lake, the access road, and adjoining properties. Erosion control shall be required for the existing driveway and it is recommended that ESD consider water run-off control structures such as rocks at appropriate locations in the ditches along the driveway to slow the run-off and water retention structures such as catch basins at the bottom of the driveway to hold run-off and prevent direct flow into the lake.
5. This additional erosion control shall be placed before issuance of a land Use Permit for the garage.
6. The existing shore vegetation shall not be altered except as allowed by Shoreland Alteration Permit.
7. Applicants consent 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.

Estate of Elizabeth J. Scheid, Vivian Youngbird, Executor, Moose Lake Township on property described as Gov Lots 3 Thru 6, Section 30-136-31, PID 27-030-2001 bordered on the north by 64<sup>th</sup> St SW (CSAH # 24) and on the west by 71<sup>st</sup> Ave SW (Cty # 109). An application submitted to reclassify a portion to the property, N  $\frac{1}{2}$  Gov Lot 4, which contains about 15 acres from Agriculture Forestry (AF) to Rural Residential - 10 in order to provide a building site for a family member. Section 704.2 of the Land Use Ordinance establishes CUP review criteria, Section 706 establishes the land reclassification criteria, Section 900 the land use district criteria and Section 1001 land use zone reclassifications be reviewed by the conditional use permit (CUP) process. The property contains 141.5 acres (AF).

PC members were at the site 08/02/10. 26 notices of the application were mailed. No responses. The application was reviewed and discussed with Ms. Youngbird.

MS/P Fitch/Gould to approve the application as submitted to reclassify PID # 27-030-2001 from AF to RR-10 upon review of Sections 704.2, 900 & 1001 of the Land Use Ordinance (01/10/10) with the following findings.

Findings:

1. As described in Section 903.5 of the Land Use Ordinance, the application complies with the purpose of Rural Residential 10 (RR-10) which is to "is to promote low density rural development on those portions of the County outside the shoreland zone and beyond area of anticipated municipal growth where less development is desired and most suitable...".
2. In addition to pasture and wood lots, the area is occupied with large lot rural residential residences.
3. No wetland or critical habitat will be negatively impacted by reclassification.
4. No scenic or historic features are contained or near the area to be reclassified.
5. Reclassification and one new residence will not allow for uses that could adversely affect public health, safety or welfare.
6. The property abuts CSAH 24 and County # 109 and requires no additional public infrastructure.
7. Reclassification of property is not subject to EAW standards.
8. No comments were received from Moose Lake Township, agencies or persons notified.

Tri-City Paving Inc, Turtle Lake Township on property described as NW NE, Section 15-141-30, PID # 45-015-1200 and NE NE Less E  $\frac{1}{4}$  Thrf, Section 15-141-30, PID # 45-015-1100 located at 3317 64<sup>th</sup> St NW. An application submitted to renew a conditional use application approved 9/84 for PID # 45-015-1200 to establish and operation an extractive use/gravel pit that includes excavation, crushing, occasional asphalt manufacturing with all pit related materials transported by truck to various job locations. The application also calls for the eventual expansion of extractive operation to the adjoining parcel PID # 45-015-1100. The combined parcels contain 69.22 acres. PID # 45-0125-1200 is classified Commercial (C) and PID # 45-015-1100 is classified Shoreland Residential (SR). Section 705 of the Land Use Ordinance establishes conditional use permit (CUP) review criteria and process. Section 1107 of the Land Use Ordinance establishes the extractive use requirements.

PC members were at the site 08/02/10. 32 notices of the application were mailed. Two responses objecting to the approval of the application and two responses not objecting to the approval of the application were received. The application was reviewed and discussed with representatives of Tri-City. Issues raised and discussed by those in attendance along with Tri-City Paving and PC members included wetlands, water table, truck traffic, dust, noise, original CUP, Tri-City operating history, county and township gravel needs.

MS/P Moore/Fitch to table consideration of the application in order that a committee consisting of neighborhood, Planning Commission, and Tri-City Paving representatives convene to develop, consider and evaluate solution for recommendations to the Planning Commission to adopt in an attempt to resolve the issue of a CUP for the site. In addition, the Planning



Commission will consider the Tri-City CUP application at a special hearing conducted late afternoon or evening.

### Other Business

1. Joslyn, Beverly & William. A request to be heard. Request that Planning Commission reconsider the 06/14/10 denial of their application for a conditional use permit to be allowed to establish a home business at their residential property.

MS/Failed Gould/Moore - Ballenthin-No, Bliss-No, Fitch-Yes, Gardner-No, Gould-No, Moore-Yes, Sundberg-No to reconsider and review the Joslyn application for CUP.

2. Glad, Allan & Mary. A request to be heard. Request that Planning Commission review shoreline vegetation condition for variance approved 03/08/10.

No action taken. PC requested that ESD meet with the Glads at their property in an attempt to resolve the shoreline mitigation questions and report back.

3. Ballanthin, James. Discuss PC presentation at September Association of Cass County Lakes meeting.

Mr. Ballenthin discussed his presentation planned for the September meeting of the Association of Cass County Lake Associations (ACOLA).

MS/P Fitch/Moore that Jim Ballenthin, Gary Gould, and Susan Sundberg represent the Planning Commission at the ACOLA meeting.

4. ESD request for clarification of the Maertens variance, VP10-140-28-4, approved 06/14/10. A walk-out basement was approved for the replacement of the existing non-conforming residence at dimension and volume. Maertens intends to turn residence 180 degrees from current orientation.

MS/P Fitch/Moore - Ballenthin-Yes, Bliss-Yes, Fitch-Yes, Gardner-Yes, Gould-No, Moore-Yes to approve the orientation of the residence as submitted by LUP application as approved by VP10-140-28-4.

4. Anderson, Duane & Sue. The Andersons request to be heard. Request that Planning Commission to review and discuss variance recording/title documents as it relates to the ordered deck width.

No action taken.

MS/P Fitch/Gardner at 4:20 p.m. to adjourn.

P. Fairbanks