



Cass County  
Planning Commission/Board of Adjustment

September 13, 2010

The Cass County Planning Commission conducted a regular meeting September 13, 2010 in the meeting room of the Cass County Land Department in Backus. The field inspection was conducted September 7 and September 8, 2010.

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

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

Staff Present: Berg and Fairbanks.

Citizens Present: Mary Albachten, Craig Anderson, Jeff Anderson, Sue Anderson, Tim Anderson, Warren Anderson, Brad Baird, Bill Bliss, Dennis Blosberg, Mike Bonde, Jim Brandt, Patty Brandt, Tom Brandt, Susan Brandt, Karen Brauer, Warren Brauer, Pat Carey, Jim Carlen, Ken Dickinson, John Eaton, Jane Ekholm, Brian Ekstrand, Earl Finlayson, Virginia Finlayson, Tom Fitzpatrick, Dave Frana, Jackie Frana, Gary Gaffey, Adie Gilmer, Ken Grabinski, Nancy Grabinski, Steve Hansen, Jeremiah Hanson, Stephen Hinkley, Michael Jensen, Dave Johnson, Karen Kaehler, Harley Kaiser, Keith Kile, Tom Maertz, Joan Maske, Roy Maske, Judy Mikkola, Wayne Mikkola, Parm Narveson, Ross Olsen, Cindy Paulson, Jeffery Porter, Clarence Rueter, Carl Schmidt, Cy Sorrells, Retta Sorrells, Judy Tenney, Marie Theisen, Brenda Thomes, Betty Waszut, Ray Waszut, Dan Whirley, and Norm Wieland.

MS/P Moore/Ballenthin to approve the minutes of the 08/09/10 PC/BOA meeting.

Variance

Brandt, James & Susan, Hiram Township, VP10-140-31-6 on property described as Pt of Gov Lot 1, Section 17-140-31, PID # 16-017-1102 located at 3930 64<sup>th</sup> Ave NW. An application submitted to expand to the side of a non-conforming residence with a 16 feet x 34 feet 16 feet x 10 feet addition, a 10 feet x 16 addition non-lakeside addition and to enclose a 13 feet x 16 feet deck/open area. The residence is non-conforming because it is located 25 feet from the lake. The property contains 1.82 acres riparian to Ten Mile 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 9/7/10. 37 notices of the application were mailed. One response from Hiram Township recommending denial was received. The proposal was reviewed with the applicants.

MS/P Ballenthin/Gould to approve the application to expand the residence located at PID # 16-017-1102 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 at less than the currently required lake setback prior to the adoption of land use regulation.
2. The expansion of the residence will be non-lakeside and not visible from the lake and to the side of the residence which will not increase encroachment to the lake.
3. The expansion of the residence 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 expansion of the residence will not affect area land use because similar style and construction is utilized by adjacent property and throughout the Ten Mile Lake area and because it will mostly be not visible from the lake.
5. The location and size of the expansion is reasonable based upon the location and configuration of the residence.
6. There is no evidence that financial consideration is the sole reason for the variance.
7. The expansion 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 nor will it be connected to municipal or community waste water treatment system.

Conditions:

1. The expansion of the residence shall not exceed the dimensions shown on the application site plan submitted 08/12/10 with overhang/eave not to exceed two 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 be maintained and not altered except as allowed by a Shoreland Alteration Permit. Lakeside vegetative screening of the expansion of the residence shall be maintained at 80% screening from visibility at summer leaf on conditions of vegetative screening.

6. Applicants consent to inspection of the property from time to time by ESD to verify compliance with all conditions.
7. The staircase for the existing deck may be removed and the deck surface may be expanded over the area of the removed staircase.

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.

Brandt, Patricia & Thomas, Hiram Township on property described as Lot 32 & W 50 Ft of Lot 33, "Northwest Shores of Ten Mile Lake", Section 4-140-31, PID # 16-349-0320 located at 4547 Alder Lane NW. An application submitted to expand a non-conforming residence by enclosing a 2 feet x 24 feet x 8 feet x 18 feet deck/patio open space area and to expand the existing deck by 5 feet x 16 feet. The residence is non-conforming because it is located 39 feet from the lake. The property contains .33 acres riparian to Ten Mile 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 9/7/10. 27 notices of the variance application were mailed. Two responses favoring the application along with a response from Hiram Township recommending denial were received. The applicants were present to review and discuss their proposal.

MS/P Gould/Fitch to approve the application to expand the residence located at PID # 16-349-0320 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 1958 and the residence was constructed at less than the current required lake setback prior to the adoption of land use regulation.
2. V78-140-31-1 approved an addition at current setback.
3. The residence expansion will occupy an open area between disconnected portions of the residence and will not be readily noticeable from the lake.
4. The residence expansion will not increase encroachment to the lake.
5. The residence expansion will not affect ground or surface water because run-off and erosion control best management construction and post construction practices must be implemented.
6. The residence expansion will not affect area land use because similar style and construction is utilized throughout the surrounding area and Ten Mile Lake and it will mostly not be visible from the water.
7. The location and size of the residence expansion is reasonable based upon the location, size and configuration of the residence.
8. There is no evidence that financial consideration is the sole reason for the variance.

9. The residence expansion will have no bearing to the need or demand for governmental services because the property already has direct access to a township and is not nor will it be connected to municipal or community waste water treatment system.

Conditions:

1. There shall be no expansion of the deck.
2. The expansion of the residence shall not exceed the dimensions shown on the application site plan submitted 08/11/10 with overhang/eave not to exceed two 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. The existing shore vegetation shall be maintained and not altered except as allowed by a 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.

Carey, Patrick, Hiram Township on property described as 300' x 300' of Gov Lot 3, Section 16-140-31, PID # 16-016-2407 located at 3821 63<sup>rd</sup> Ave NW. An application submitted to expand the existing non-conforming residence by enclosing the 10 feet x 20 feet deck which is considered an addition located 76 feet from the lake and to construct a new 10 feet x 12 feet deck to be located 86 feet from the lake. The residence is non-conforming because it is located 70 feet from the lake which is less than required 75 feet. The property contains 1.98 acres riparian to Ten Mile 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 9/7/10. 36 notices of the variance application were mailed. One response from Hiram Township that recommends that the application be approved was received. Mr. Carey was present to review and discuss his application.

MS/P Ballenthin/Gould to approve the application to expand the residence located at PID # 16-016-2407 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 1959 prior to the adoption of land use regulation and the residence was constructed prior to the adoption of land use regulation.
2. Although the residence is located at less than the required setback both the addition and the deck will comply with lake setback.
3. The addition and deck 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 addition and the deck will not affect area land use because they will not be visible for adjacent property and will not significantly differ in construction or use form other residences along 63<sup>rd</sup> Ave and Ten Mile Lake.
5. The location and size of the addition and deck is reasonable based upon the location, size and configuration of the residence.
6. There is no evidence that financial consideration is the sole reason for the variance.
7. The addition and deck will have no bearing to the need the need or demand for governmental services because the property already has direct access to a township and is not nor will it be connected to municipal or community waste water treatment system.

#### Conditions:

1. The addition shall not exceed 10 feet x 20 feet with drip line/eave not to exceed two feet.
2. The deck 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 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 for vegetation in existing non-vegetated areas shall include a "no now" area 10 feet landward of the shoreline across the lot lake frontage, subject to a 14 feet access path, unless otherwise approved 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.

Grabinski, Kenneth & Nancy, Thunder Lake Township, VP10-140-26-6 on property described as Part of Gov Lot 4, Section 15-140-26, PID # 42-015-4403 located at 6385 Little Cleo Drive NE. An application submitted to construct a 1,256 square feet residence and retain the existing 744 square feet residence as a guest house. The property which is 100 feet wide at the lake and at the structure setback contains 3.32 acres riparian to Thunder Lake (GD). Section 1113.1 of the Land Use Ordinance requires a riparian General Development (GD) lot to contain at least 60,000 square feet (1.38 acres) and be at least 180 feet wide at the lake and the structure setback to contain a primary residence and a guest residence.

PC Members were at the site 9/8/10. 28 notices of the application were mailed. Two responses from within the notification area both supporting approval of the application were received. The applicants appeared to review and discuss their proposal.

MS/P Ballenthin/Fitch - Ballenthin-Yes, Bliss-Yes, Gardner-No, Gould-No, Fitch-Yes, Moore-No, Sundberg-Yes to approve the request to retain guest quarters located at PID # 42-0154403 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 1995 with no record of when the residence which is proposed to be used as a guest house was constructed.
2. The lot contains 3.32 acres which exceeds the minimum total area required, 1.38 acres.
3. The residence will be located 150 feet from the lake.
4. The residence 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 residence will not affect area land use because it will not be visible from the lake and similar construction and style is utilized and common to the Thunder Lake area.
6. Maintaining the current residence as a guest house is reasonable based upon its location along with the size and configuration of the lot.
7. There is no evidence that financial consideration is the sole basis of the application.
8. No comments have been received from Thunder Lake Township or any agency notified and all comments received from persons notified support approval of the application.
9. 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. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal facility.
2. 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.

3. 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.
4. The existing shoreline vegetation shall not be altered except as allowed by Shoreland Alteration Permit.
5. Applicants consent to inspection of the property from time to time by ESD to verify compliance with all conditions.
6. VP03-140-26-2 dated August 25, 2003 is revoked and ESD shall record revocation with the County Recorder.

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.

Hansen, Steve, Ponto Lake Township, VP10-139-29-6 on property described as part of Lot 1, Blk 1, "Clearwater Haven", Section 29-139-29, PID # 32-449-0110 located at 700 State 84 NW. An application submitted "after the fact" to construct a 2,210 square feet residence/attached garage located 42 feet from the right-of-way of State # 84. The property contains 1.2 acres riparian to Lake Ada (RD). Section 1126.1 B. of the Land Use Ordinance requires structures to be located 50 feet from the right-of way of a federal, state or county roadway.

PC members were at the site 9/8/10. 26 notices of the application were mailed with no responses. The application was reviewed with Mr. Hansen and the contractor Mr. Gaffey.

MS/P Ballenthin/Moore - Ballenthin-Yes, Bliss-Yes, Fitch-Yes, Gardner-Yes, Gould-No, Moore-Yes to approve the location of the attached garage, as constructed, to the residence at 42 feet from the right-of-way of State # 84 on PID # 32-449-0110 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 applicant failed to obtain a variance before commencing the work, but the failure appears to be the result of error by the contractor and not an intentional violation of the Ordinance.
2. The applicant attempted to comply with the Ordinance by obtaining proper permit but it appears the permit was issued in error.
3. The applicant obtained a permit that violated the Ordinance but it appears that the violation was not intentional.
4. The applicant has made substantial investment in or improvement to the property because the structure is substantially completed and it would be unreasonably costly to correct the construction as compared to the minimal violation.

5. The applicant substantially completed the work before being informed of the violation and the applicant appears to have acted in good faith.
6. The existence of other similar structures in the neighborhood is not relevant.
7. The minimum benefits to the County appear to be far outweighed by the detriment the applicant would suffer if forced to move or remove the structure because the violation is minimal and because MN DOT, the affected road authority, has not voiced any objection to the right-of-way setback encroachment.
8. Prior to the applicant's purchase of the property a permit was issued authorizing certain shoreland work which required vegetative restoration which was not done. The Ordinance prohibits the grant of a variance if there is an outstanding violation unless the variance is part of the process to correct the violation.
9. In light of all of the above, a variance should be granted subject to vegetative restoration, as follows: a setback variance from 76 feet from the centerline of State # 84 is approved.

Conditions:

1. 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.
2. Shore vegetation/re-vegetation shall be installed and maintained in a buffer area according to a plan submitted September 13, 2010. Existing shore impact zone one, 50 feet setback from the lake, vegetation shall not be diminished and shall be maintained except as allowed by a Shoreline Alteration Permit, subject to a 14 foot wide access path.
3. Applicant consents to inspection of the property from time to time by ESD to verify compliance with 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.

Held, David & Eleanor, Woodrow Township, VP10-140-29-13 on property described as Lot 5, Blk 1, "Withams Big Deep Shores", Section 31-140-29, PID # 51-513-0150 located at 2317 Big Deep Lake Drive NW. An application submitted to expand the existing 20 feet x 24 feet non-conforming residence with a 20 feet x 20 feet addition no closer to the lake. The residence is non-conforming because it is located 83 feet from the lake. The lot contains 3.45 acres riparian to Big Deep 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 9/7/10. 30 notices of the application were mailed. Two responses including Woodrow Township both recommending approval of the application were received. The application was reviewed with the applicants' contractor Mr. Ekstrand.

MS/P Ballenthin/Fitch to table consideration of the application until the 10/11/10 meeting in order for Mr. Ekstrand to discuss structure location options with the applicants.

Hinkley, Stephen, Shingobee Township, VP10-141-31-6 on property owned by the Elizabeth Hinkley Revocable Trust described as Pt of Gov Lot 4, Section 25-141-31, PID # 38-025-3409 & pt of Gov Lot 4, Section 25-141-31, PID # 38-025-3428 located at 5337 Ten Mile Lane NW. An application submitted to construct 24 feet x 40 feet/960 square feet garage which will exceed the maximum square feet of accessory structure allowed based on lot size by 60 square feet. The combined lots contain .39 acre riparian to Ten Mile Lake (GD). Section 1101 of the Land Use Ordinance allows for a lot containing up to .49 acre to contain accessory structures not to exceed 900 square feet.

PC members were at the site 9/7/10. 41 notices of the application were mailed. One response from the N Ten Mile Lake SSD offering no objection to approval of the application was received. The application was reviewed and discussed with Mr. Hinkley.

MS/P Moore/Gardner to approve the request to exceed the maximum square footage allowed based upon the combined lot size by 60 square feet for PID #s 38-025-3428/38-025-3409 review of Section 805 of the Land Use Ordinance (01/10/10) with the following findings.

Findings:

1. The lots were created in 1955 prior to the adoption of accessory structure size linked to lot size.
2. The amount over the maximum allowed, 60 square feet is insignificant and will have no affect to adjacent property.
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 similar construction and style is utilized along Ten Mile Lane.
5. There is no evidence that financial consideration is the sole basis of the application.
6. No comments were received from Shingobee Township or agencies notified.
7. The N Ten Mile Lake Sewer District recommends approval.
8. The garage will have no bearing to the need the need or demand for governmental services because the property does not require improved access to Ten Mile lane and it is already connected to the N Ten Mile Lake Sewer District.

Conditions:

1. The garage shall not exceed the dimensions of the site plan submitted 08/18/10 with overhang/eave not to exceed 2 feet not less than 82 feet from the lake.
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.

Maske, Joan & Roy, Crooked Lake Township, VP10-139-267 on property described as N 125 Ft of the S 259 Ft of the N 1200 Ft of Gov Lot 8, Section 9-139-26, PID # 12-009-2315 located at 1937 Peninsula Road NE. An application submitted to construct a 36 feet x 40 feet residence 65 feet from Lake Washburn. The property contains 3.75 acres riparian to Lake Washburn (GD). Section 1126.1 A. of the Land Use Ordinance requires structures to be located 75 feet from a lake classified General Development (GD). A variance for this property was approved 03/12/07 but not utilized.

PC members were at the site 9/8/10. 38 notices of the application were mailed. No responses were received. The application was reviewed and discussed with the Maskes.

MS/P Ballenthin/Fitch to approve the location and footprint at less than the required lake setback for at PID # 12-009-2315 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 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 shall not exceed 36 feet x 40 feet with overhang/eave not to exceed 2 feet not less than 65 feet from the lake.
2. There shall be no lakeside deck less than 65 feet from the lake.
3. Removal of the existing structures from within the lake setback must be completed by 11/1/10.
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. 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.
7. 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.
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 applicants upon a schedule approved by ESD and shall 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. No permit for the new residence shall be issued before the plan for vegetative restoration is approved by ESD and applicants have paid the required financial assurance.

10. 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.

Porter, Jeffery & Minto, Sylvan Township, VP10-133-30-1 on property described as Part of Lot 53, "Carlyons Sylvan Park", Section 1-133-30, PID # 41-456-0532 located at 12385 Lower Sylvan Road SW. An application submitted to replace the existing residence with new construction of a two story 1,238 square feet residence with attached 1,236 square feet garage. The existing residence is and the proposed residence will be located within 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 1.6 acres riparian to Sylvan 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 9/8/10. 50 notices of the application were mailed. Three responses objecting to the application along with a response from Sylvan Township recommending approval were received. The application was reviewed with the Porters' representative Mr. Fitzpatrick. Discussion included proposed residence footprint, run-off, shoreline vegetation, lakeside impervious coverage reduction options and alternative placement options.

M Moore to approve the application the application to construct a residence within the bluff area as submitted for PID # 41-456-0532 as submitted upon review of Section 800 of the Land Use Ordinance (01/10/10) with the following findings and condition. Motion failed for lack of a second.

MS/P Ballenthin/Gould to table consideration of the application until the 10/11/10 meeting in order for the applicants and their representatives to consider possible site plan/residence location options.

Rowland, Stanley, Bungo Township, VP10-137-31-1 on property described as NW SE Less S  $\frac{1}{2}$  SE  $\frac{1}{4}$ , Section 12-137-31, PID # 10-012-4200 located along 32<sup>nd</sup> St SW. An application submitted to place a 14 feet x 70 feet/980 square feet guest house which exceeds the maximum allowed by 80 square feet. The property is non-riparian and contains 35.33 acres (AF). Section 1126.5

B. of the Land Use Ordinance establishes the maximum size of guest quarters not to exceed 900 square feet.

PC members were at the site 9/8/10. 15 notices of the application were mailed with no responses received.

MS/P Ballenthin/Fitch to approve the application to exceed guest quarters maximum allowable size by 80 square feet for PID # 10-012-4200 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 property contains 35.33 acres.
2. The amount over the maximum allowed, 80 square feet is insignificant and will have no affect to adjacent property.
3. The guest house will not affect area land use because it will not be visible from the road or to neighboring properties.
4. There is no evidence that financial consideration is the sole basis of the application.
5. No comments were received from Bungo Township, agencies or persons notified.
7. The guest house will have no bearing to the need the need or demand for governmental services because it will not be served by a township roadway nor will ii be connected to a municipal or a community waste water treatment system.

Schmitt, Carl, Ponto Lake Township, VP10-139-29-8 on property described as Rev Desct 8 of Gov Lot 8, Section 30-139-29, PID # 32-030-4306 located at 2149 Hogans Island Drive. An application submitted to expand the existing non-conforming residence by enclosing a 14 feet x 16 feet deck which is considered an addition. The residence is non-conforming because it is located less than required 100 feet lake setback. The property contains 6.43 acres riparian to Lake Hattie (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 9/7/10. 19 notices of the application were mailed with no response received. The application was reviewed with Mr. Schmidt.

MS/P Ballenthin/Gould to approve the application for expansion of the residence located upon PID # 32-030-4306 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 when the lake setback was 85 feet.
2. The deck enclosure will not increase setback encroachment to the lake.

3. 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.
4. The addition will not affect area land use because similar style and construction is utilized throughout the surrounding area and because it will mostly not visible from the water.
5. The location and size of the addition is reasonable based upon the location, configuration and size of the residence.
6. There is no evidence that financial consideration is the sole reason for the variance.
7. No comments were received from Ponto Lake Township, agencies or persons notified.
9. The addition will have no bearing to the need the need or demand for governmental services because the property is not located on a governmental maintained roadway not is it connected to municipal or community waste water treatment system.

Conditions:

1. The addition shall not exceed 14 feet x 16 feet with overhang/eave not to exceed two feet on the non-lakeside of the residence.
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. 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 take into account any valid permit issued by DNR for a weed roller.
6. 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.

Sehnert, Ann & Tim, Ponto Lake Township, VP10-139-29-7 on property described as Pt of Gov Lot 2, Section 16-139-29, PID # 32-016-1210 located at 1556 12<sup>th</sup> Ave NW. An application submitted to expand the existing non-conforming residence with a 24 feet x 16 addition. The application also requests 4 feet x 26 feet expansion of the existing deck which will reduce the lake setback from 58 feet to 54 feet. In addition the applicants as allowed by permit will re-build a portion of the existing residence as well as construct a basement under the portion to be

re-built and the addition. The residence is non-conforming because it is located less than required 100 feet lake setback. The property contains .33 acres riparian to Ponto Lake (RD). Section 1115.3 B. of the Land Use Ordinance allows for the expansion of a non-conforming residence only by variance. Section 1126.1 A. requires structures as measured from a deck to be at least 100 feet from a lake classified Recreational Development (RD).

PC members were at the site 9/7/10. 53 notices of the application were mailed with one response of support of approval received. The application was reviewed and discussed with Mr. Sehnert.

MS/P Ballenthin/Gardner to approve the application as submitted to expand the residence located upon PID # 32-016-1210 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 1960 and the original residence constructed prior to the adoption of land use regulation.
2. The expansion is reasonable when considering the portion that can be rebuilt with permit along with the size and configuration of the lot.
3. The expansion 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 residence will not affect area land use because similar style and construction is common along W Ponto Lake Road.
7. There is no evidence that financial consideration is the sole basis of the application.
8. No comments have been received from any of those notified.
9. The expansion will have no bearing to the need the need or demand for governmental services because there is already access to a governmental maintained roadway nor will it be connected to municipal or community waste water treatment system.

#### Conditions:

1. The expansion/deck dimensions shall not exceed those of the site plan submitted with the application 08/19/10.
2. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal facility.
3. ESD shall 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. 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 require re-vegetation in an area above the first retaining wall from the water to the flat area above that wall subject to a 14 feet access path unless otherwise 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. 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.

Sorrells, Loretta, Woodrow Township, VP10-140-29-14 on property described as Pt of E  $\frac{1}{2}$  of SE, Section 24-140-29, PID # 51-024-1103 located at 3202 Fox Hill Trail NW. An application submitted to locate a guest house 28 feet from the right-of-way CSAH # 11. The property is non-riparian and contains 46 acres (RR-2.5). Section 1126.1 B. of the Land Use Ordinance requires structures to be located 50 feet from the right-of way of a county, state or federal roadway.

PC members were at the site 9/7/10. 59 notices of the application were mailed. Two responses including Woodrow Township both recommending approval of the application were received. The application was reviewed and discussed with Retta and Cy Sorrells.

MS/P Gardner/Fitch to approve the application as submitted to allow the placement of a guest house at less than the required right-of-way setback for PID # 51-024-1103 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 original residence constructed prior to the adoption of land use regulation.



2. The guest house location is reasonable when considering the portion of the property available due conservation easement limitations.
3. The guest house 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 guest house will not affect area land use because it will be screened from CSAH # 11 and neighboring residence and because of its small footprint.
7. There is no evidence that financial consideration is the sole basis of the application.
8. No comments have been received from any of those notified including the Cass County Highway Department.
9. The expansion will have no bearing to the need the need or demand for governmental services because there is already access to CSAH # 11 nor will it be connected to municipal or community waste water treatment system.

Conditions:

1. The size and location of the guest house shall comply with the site plan submitted with the application 08/15/10.
2. 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.

Tenney, Judith, Woodrow Township on property described as Lot 28, S  $\frac{1}{2}$  of Lot 70 & All of Lot 71, "End of Trail 3<sup>rd</sup> Addition", Section 15-140-29, PID # 51-405-0710 located at 882 Edgewater Drive NW. An application submitted "after the fact" to be allowed to retain completed 12 feet x 18 feet addition located on the non-lakeside of the residence and a completed 10 x 14 feet deck located to the side of the residence. In addition the application includes "after the fact" a request to be allowed to retain an already constructed two tier 14 feet x 25 feet deck located at the waters edge. The residence is non-conforming because it is located at less then than the required setback of 75 feet. The property contains .41 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. 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 9/7/10. 78 notices of the application were mailed. Three responses were received. One response offered no objection to the request, one response objected to the deck near the water but not the deck/addition to the residence and one response from Woodrow Township recommending denial of the lakeside deck and approval of the residence deck/expansion. The application was reviewed and discussed with Judith Tenney and Tom Maertz.

MS/P Gould/Ballenthin to deny allowing the lakeside deck to remain and to allow the deck and expansion to the residence to remain for PID # 51-405-0710 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.

Finding/Deny Deck at Water:

1. No compelling practical difficulty can be established that demonstrates the necessity to retain the two tiered deck in order to afford the applicants the use and enjoyment of their property.

Condition:

1. Not later the November 1, 2010 the deck shall be removed or reconfigured to comply with the platform Standards

Findings/Approve Non-Lakeside Deck and Addition:

1. The property was platted in 1922 and the original residence constructed prior to the adoption of land use regulation.
2. The addition/deck is reasonable when considering the size and configuration of the residence.
3. There is no evidence that the addition/deck has affected ground or surface water.
4. The addition/deck located along the side of the residence did not increase setback encroachment to lake.
5. There is no indication that the addition/deck has residence has affected area land use.
6. There is no evidence that financial consideration is the sole basis of the application.
8. No comments have been received from any of those notified.
9. The addition/deck has had no bearing to the need the need or demand for governmental services because there is already access to a governmental maintained roadway it is not connected to municipal or community waste water treatment system.

Conditions:

1. The addition/deck shall remain in their present configuration.
2. 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.
3. 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.

4. A storm water run-off plan subject ESD approval shall be implemented no later than June 1, 2011.
5. 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.

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.

Waszut, Raymond, Sylvan Township on property described as Lot 4, Blk 3, "Sylvan Shady Shores", Section 2-133-30, PID # 41-562-0310 located at 12200 W Sylvan Drive SW. An application submitted "after the fact" to be allowed to retain a completed 24 feet x 22 feet 5 inch boathouse flat roof which is utilized for deck. The property contains .2 acre riparian to Sylvan Lake (GD). Section 1126.1 A. of the Land Use Ordinance requires structure to be located 75 feet from a lake classified General Development (GD) Section 1126.4 C. of the Land Use Ordinance requires boathouse roofs to be converted for flat to pitch as a requirement of boathouse maintenance.

PC members were at the site 9/8/10. 65 notices of the application were mailed. Three responses including Sylvan Township all recommending denial of the application were received. The situation was reviewed and discussed with Betty and Ray Waszut.

MS/P Gardner/Gould to deny part and approve part of the application as submitted to be allowed to retain for the flat roof/deck placed on and extended beyond boathouse located at PID # 41-562-0310 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.

Finding:

1. No compelling practical difficulty can be established that demonstrates the necessity to retain the flat roof/deck constructed over the boathouse, as extended beyond the boathouse, in order to afford the applicants the use and enjoyment of their property.

2. Retention of the flat roof/deck constructed over the boathouse foundation, with the roof/deck dimensions of 10 feet x 22 feet 6 inches, is reasonable based upon like structures in the neighborhood.

Conditions:

1. The 10 feet x 22 feet 6 inch flat roof over the original boathouse may be retained.
2. The 14 feet x 22 feet 6 inch portion must be removed not later the June 1, 2011.

Zobel, Martin, Trustee, Shingobee Township, VP10-141-31-5 on property described as Lot 18, "Park Point", Section 35-141-31, PID # 38-433-0180 located at 5316 County 71 NW. An application submitted to be allowed to convert an 18 feet x 22 feet existing storage structure to a guest house. The property is 100 feet wide contains .34 acre riparian to Ten Mile Lake Sylvan Lake (GD). Section 1113. 1 of the Land Use Ordinance requires that in order to contain guest quarters a riparian lot located on a General Development (GD) to contain 1.38 acres and be at least 180 feet wide at the water and a the structure setback.

PC members were at the site 9/7/10. 34 notices of the application were mailed. One response offering no objection to the approval of the application was received. The application was reviewed and discussed with the Trust's representative Mr. Hanson.

MS/P Gould/Fitch to approve the application as submitted to allow the conversion of an existing storage building to a guest house located at PID # 38-433-0180 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 1947 prior to the adoption of land use regulations.
2. Approval will not result in additional construction or impervious coverage.
3. The structure proposed to be converted is not visible from the lake.
4. There is no indication that the structure to be converted has affected ground or surface water.
5. There is no indication that the structure to be converted has had any affect to area land use because it will not be visible from the lake and similar construction and style is utilized and common to the Ten Mile Lake area.
6. There is no evidence that financial consideration is the sole basis of the application.
7. No comments have been received from Shingobee Township or any agency 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. 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.
2. 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.

3. 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.

#### Conditional Use Permit

Anderson, Timothy/Spirit of the North Resort, Turtle Lake Township on property described as Part of E 320 Ft of Gov Lot 6 & Pt of E 320 Ft of E 320 Ft of NW  $\frac{1}{4}$  of SE  $\frac{1}{4}$ , Section 35-142-30, PID # 45-135-1405 located at 7418 Smokey Point Road NW. An application submitted for the movement of up to 1,200 cubic yards of earthen material within the structure setback area which is 75 feet from the lake. The project includes the removal of a retaining wall, beach sand placement and the excavation for a walk-out basement for a cabin replacement. The property contains 16.9 acres riparian to Leech Lake (GD) classified Water Oriented Commercial (WOC). Section 705 of the Land Use Ordinance establishes CUP review criteria. Section 1121 C. of the Land Use Ordinance establishes family campground criteria.

PC members were at the site 9/7/10. 48 notices of the application were mailed. Three responses objection to approval of the application along with two responses supporting approval of the application were received. The application was reviewed and discussed with Sue and Tim Anderson.

MS/P Ballenthin/Gould to table consideration of the application until the 10/11/10 meeting in order for the applicants to submit additional informational as to the erosion control methods to be utilized, the type of vegetation to be utilized in the disturbed area and beach configuration.

Bayer, Mike, Wabedo Township on property described as Pt of Gov Lot 5, Section 23-140-28, PID # 46-023-3405 located at 1650 Wabedo Frontage Road NE. An application submitted to

reclassify the property from Shoreland Residential (SR) to Water Oriented Commercial (WOC) for the purpose of operating a resort. The property contains 4.3 acres riparian to Lake Wabedo (RD). Section 705 of the Land Use Ordinance establishes CUP review criteria. Section 901 of the Land Use Ordinance establishes and describes land use districts. Section 1104.9 of the Land Use District establishes resort criteria.

PC members were at the site 9/8/10. 30 notices of the application were mailed. Six responses objecting to approval of the application along with two responses including Wabedo Township recommending approval of the application were received.

MS/P Ballenthin/Moore to table consideration of the application until the 10/11/10 meeting as requested by the applicant.

Theisen, Randy, Powers Township on property described as Part of SW  $\frac{1}{4}$  of SW  $\frac{1}{4}$ , Section 22-139-30, PID 34-022-3303 located at 3574 State 87 NW. An application submitted to establish a family campground containing not more than 5 recreational vehicle trailers which will be used by family members and not available to the public for rent, use or occupancy. The non-riparian property contains 3.6 acres within the shoreland area (1,320 feet) of an unnamed Natural Environment lake (NE) classified Shoreland Residential (SR). Section 705 of the Land Use Ordinance establishes CUP review criteria. Section 1121 C. of the Land Use Ordinance establishes family campground criteria.

PC members were at the site 9/7/10. 44 notices of the application were mailed. No responses were received. The application was reviewed and discussed with Marie Theisen.

MS/P Ballenthin/Gould to approve the application as submitted for a family campground located upon PID # 34-022-3303 upon review of Sections 705 and 1121 C. of the Land Use Ordinance (01/10/10) with the following findings and conditions.

#### Findings:

1. The existing activity seems not to be disruptive to the neighborhood based on no record of concerns or complaints made to ESD.
2. No wetland or critical habitat is affected.
3. No scenic or historic features are affected.
4. The existing use has no record of harm to public health, safety or welfare.
5. The current use has not altered area land use.
6. The designation of family campground will not increase the need or demand for governmental services because no road improvements are required and it is not served by municipal or community waste water treatment.

#### Conditions:

1. The waste water treatment system capacity must be confirmed as to be large enough to handle projected flow and if proven not to be adequate shall be brought into compliance by 06/01/11.
2. All applicable permits and/or licenses must be obtained.
3. The property shall contain no more than 6 RV/Campsites.
4. A 50 feet vegetated buffer shall be maintained from the RV/Campsites to all abutting properties.

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

#### Other Business

1. Request to be heard received from Lisa and John Tabaka. Request that the Planning Commission to reconsider and then review their 07/12/10 denial of the Tabaka application VP10-141-28-1, for variance.

MS/P Fitch/Gardner to not to reconsider the denial VP10-141-28-1 because information submitted is not sufficient nor compelling enough to merit addition consideration.

2. Review Helsher variance summary. VP09-141-31-4 approved 08/10/09. No action taken. Fairbanks will contact Helsher.

3. Request to be heard received from Norb Epping. Request to be allowed increase the size of the addition by 5 feet to the non-lakeside of the residence. The addition, VP09-141-28-4, was approved 10/12/09.

MS/P Ballenthin/Moore to revise VP09-141-28-4 as requested.

4. Request to be heard received from David Hewitt. Request to extend expiration of VP08-134-29-1 which was approved 11/10/08.

MS/P Ballenthin/Fitch to extend the expiration of VP08-134-29-1 to 11/10/12 as requested.

5. Review and renew CU09-140-30-2 which was approved 04/28/09 for Ross Olsen to establish and operate a chainsaw sculpture event upon his property located at the junction of TH #371 and CSAH # 45 in Birch Lake Township. Condition # 6. requires the applicant to renew annually.

MS/P Moore/Ballenthin/Gould to renew CU09-140-30-2 with no further renewal requests required.

MS/P Fitch/Gardner at 5:48 p.m. to adjourn.

P. Fairbanks