



Cass County  
Planning Commission/Board of Adjustment

October 11, 2010

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting October 11, 2010 in the meeting room of the Cass County Land Department in Backus. The field inspection was conducted October 4, 2010 and October 5, 2010.

Sundberg called the meeting to order at 9:00 a.m.

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

Staff Present: Berg and Fairbanks.

Citizens Present: Jack Abrahamson, Mary Albachten, Craig Anderson, Sue Anderson, Tim Anderson, Warren Anderson, Kristine Anfenson, Kathy Bayer, Mike Bayer, Dennis Blossman, Pat Boen, Charles DeChene, Robert DeChene, Tom Dellman, Roberta Dorle, John Eaton, Brian Ekstrand, Jerry Emery, David Fletcher, Patsy Fletcher, Mike Foehrenbacher, Terry Freeman, Scott Fuller, Nancy Gangelhoff, Arlan Haglin, Susan Haglin, Dean Heidmann, Holly Heidmann, Diane Hipsher, Paul Hipsher, Dave Johnson, Tom Johnson, Karen Kaehler, Terry Kopren, Patrick Koshiol, Kevin Larson, Douglas Loftis, Travis Miller, Gerald Mills, Mark Mueller, Candace Nies, Jim Nitchals, Marlys Nitchals, Shawn Palmer, Jody Rasinski, Ken Rasinski, Jay Riffle, Bruce Skipton, Rob Smith, Heavenly Smith, Ron Stokesbary, Jan Terlinde, Ron Terlinde, Myles Wagner, Dan Whirley, Norm Wieland, Darrell Zenk and Lauralee Zenk.

MS/P Fitch/Gardner to approve the minutes of the 09/13/10 PC/BOA meeting as amended.

Variance

Anfenson, Kristine & Thomas, Unorganized on property described as Lot 1 & PT of Lot 2 & Pt of Gov Lot 4, "Chippewa Beach", Section 19-143-30, PID # 76-394-0010 located at 10562 Chippewa Beach Road NW. An application submitted to expand the existing non-conforming residence with a 14 feet x 24 feet addition to the side and a 14 feet x 22 feet addition to the non-lakeside neither of which will increase the encroachment to the lake. The residence is non-conforming because it is located 60 feet from the lake. The property contains 1.66 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 10/04/10. 31 notices of the application were mailed. One written response opposed to approval of the application was received. The person who submitted the

written comment also appeared at the hearing to confirm his opposition to approval. The proposal for variance along with the site plan showing the proposed additions was discussed and reviewed with Ms. Anfenson.

MS/P Gardner/Kostial to approve the application to expand the residence located at PID # 76 - 394-0010 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. No permit activity for the parcel prior to 1998 can be confirmed therefore it is reasonable to assume the original residence was constructed at less than the required lake setback prior to the adoption of land use regulation.
2. Expansion of the residence along with a lake side deck was approved by ZP98-143-30-6.
3. 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 which is not a substantial variation from the ordinance standards.
4. 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.
5. The expansion of the residence will not affect area land use because similar style and construction is utilized by adjacent property along Chippewa Beach Road and because it will not be a significant alteration to its view from the lake.
6. The location and size of the expansion is reasonable based upon the size and configuration of the residence.
7. There is no evidence that financial consideration is the sole reason for the variance.
8. The expansion will have no bearing to the need or demand for governmental services because the property already has access to a public 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 09/16/10 plus 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 applicants voluntarily agree that they will remove the structure located near water's edge by 06/01/11.
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.
7. Deposit of financial assurance with ESD in the amount of \$1 per square foot of the buffer area for no-mow plus \$3 per square foot for all other vegetative buffers or if less, 125% of the cost estimate. Any financial assurance shall be returned to the applicant upon a schedule approved by ESD, and in all events upon substantial implementation of the plan, as determined by ESD. Requirements of the approved plan for vegetation not completed in accordance with the schedule will be installed at the direction of ESD and charged against the financial assurance.
8. 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.

Benson, Bonita, Loon Lake Township on property described as Pt of Gov Lot 2, Section 29-136-29, PID # 22-029-2410 located at 1608 64<sup>th</sup> St SW. An application submitted to enclose a hot tub area with a 9 feet x 10 feet addition and to construct a 10 feet x 14 feet deck both to be located on the non-lakeside of the residence. The residence is non-conforming because it is located less than 100 feet from the lake. The property contains .77 acres riparian to Loon 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 10/05/10. 40 notices of the variance application were mailed with no responses received. The application was discussed and reviewed with the applicant's representative Roberta Dorle.

MS/P Fitch/Gardner to approve the application to expand the residence located upon PID # 22-029-2410 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. No permit activity for the parcel prior to 1983 can be confirmed therefore it is reasonable to assume the original residence was constructed at less than the required lake setback prior to the adoption of land use regulation.
2. Expansion of the residence non-lakeside was approved by ZP86-136-29-4 and lakeside to 74 feet by VP136-29-1.

3. The expansion of the residence will be non-lakeside and not visible from the lake which is not a substantial variation from the ordinance standards.
4. 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.
5. The expansion of the residence will not affect area land use because is non-lakeside, not significant in size and mostly unobservable from neighbors and traffic.
6. The location and size of the expansion is reasonable based upon the size and location of the hot tub area.
7. There is no evidence that financial consideration is the sole reason for the variance.
8. The expansion will have no bearing to the need or demand for governmental services because the property already has direct access to a public 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 09/02/10 plus 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
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.

Edwards, Susan, Hiram Township on property described as Lot 1, Blk 2, "Hillaway", Section 11-140-31, PID # 16-391-0210 located at 5568 Hillaway Drive NW. An application submitted to enclose a 12 feet x 31 feet portion, which is considered an addition, lakeside of a non-conforming residence. The residence is non-conforming because it is located 72 feet from the lake. The property contains 1.45 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 10/04/10. 43 notices of the variance application were mailed. One response opposed to approval of the application along with one from the Hillaway Association supporting approval were received. The application was discussed and reviewed with the applicant's representative/contractor Kevin Larson.

MS/P Ballenthin/Fitch to approve the application to expand the residence located upon PID # 16-391-0210 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 approved for construction at 75 feet by ZP78-140-31-9.
2. The expansion of the residence will be 72 feet from the lake which is not a significant variation from ordinance requirements and will mostly not be visible from the lake due to the existing shoreline vegetation.
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 it will be mostly unobservable from neighbors and traffic and is not dissimilar to other lakeshore style and construction utilized throughout the Ten Mile Lake area.
5. The location and size of the expansion 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 expansion will have no bearing to the need or demand for governmental services because the property already has access to CSAH # 6 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 10/11/10 plus 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

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.

Erickson, Fred & Patricia, Ponto Lake Township on property described as S120 Ft of Outlot A Lyg W of Roadway, "Haleys Haven", Section 14-139-29, PID # 32-400-1002 located at 1293 Haleys Haven Drive NW. An application submitted "after the fact" to be allowed to retain a walk-out basement. The residence is non-conforming because it is located 50 feet from the lake. The lot contains .35 acre riparian to Hand Lake (RD). Section 1115.3 B. of the Land Use Ordinance allows walk-out basements to non-conforming residences only by variance.

PC Members were at the site 10/05/10. 28 notices of the application were mailed. Two responses both supporting approval of the application were received. Mr. Erickson was present to describe his situation and application.

MS/P Kostial/Ballenthin to approve the application for the walk-out basement for the residence located upon PID # 32-400-1102 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 1953 and the original residence was most likely constructed at less than required lake setback prior to the adoption of land use regulation.
2. V79-139-29-1 approved by the Ponto Lake Zoning BOA authorized construction of a residence to replace one destroyed by fire 53 feet from the lake.
3. The walk-out does not increase footprint nor will it be readily noticeable from the lake.
4. The walk-out was constructed during an emergency created by foundation failure and does not increase encroachment to the lake.
5. The walk-out does not affect ground or surface water because run-off and erosion control best management practices are being implemented.
6. The walk-out will not affect area land use because similar style and construction is utilized throughout the surrounding area, Hand Lake and it will mostly not be visible from the water.
7. The "after the fact" walk-out replaces a fireplace chimney and is reasonable based upon the location, size and configuration of the residence.
8. There is no evidence that financial consideration is the sole basis for variance.
9. The walk-out has no bearing to the need or demand for governmental services because the property already has access to a township and is not nor will it be connected to municipal or community waste water treatment system.

Conditions:

1. The walk-out shall not vary the dimensions shown on the application site plan submitted 08/11/10.
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.
5. SA10-139-29-6 must be implemented as approved.
6. Shore vegetation/re-vegetation, except for a 14 feet wide access, shall be installed and maintained in a buffer area as determined by ESD as follows: The applicant shall develop a written 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.
7. Deposit of financial assurance with ESD in the amount of \$1 per square foot of the buffer area for no-mow plus \$3 per square foot for all other vegetative buffers or if less, 125% of the cost estimate. Any financial assurance shall be returned to the applicant upon a schedule approved by ESD, and in all events upon substantial implementation of the plan, as determined by ESD. Requirements of the approved plan for vegetation not completed in accordance with the schedule will be installed at the direction of ESD and charged against the financial assurance.
8. 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.

Fletcher, David & Patsy, Turtle Lake Township on property described as Lot 11, Blk 1, "Big Rock Resort", Section 27-142-30, PID # 45-518-0122 located at 7860 Hawthorn Trail NW. An application submitted to replace a 22 feet x 32 feet non-conforming residence with a 24 feet x 44 feet residence at the same lake setback. The residence is non-conforming because it is located less than 75 feet from the lake. The lot contains .08 acre riparian to Leech 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 10/04/10. 55 notices of the application were mailed with no responses received. The application was discussed and reviewed with the Fletchers along with Jerry Emery Big Rock Resort developer.

MS/P Ballenthin/Kostial to approve the location and size of the residence at to be located upon 45-518-0122 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 structure could be replace at current footprint as allowed by M.S. 394.36 and could be expanded as allowed Section 1104.9 E. of the Land Use Ordinance.
2. The footprint of the addition is not a significant increase, is non-lakeside and will not alter the current lake setback
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 new residence will not affect area land use because it is located and part of an existing resort/ownership facility and is similar to other units in style and construction utilized throughout Big Rock Resort.
5. The location and size of the new residence is reasonable based upon the location, size and configuration of the property.
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 to a public road and is connected to resort's waste water treatment system.
8. The size and location of the addition is in compliance with the Owners Association by-laws and standards.

Conditions:

1. The residence shall not exceed 22 feet x 44 feet plus 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
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.

Foehrenbacher, Michael, Birch Lake Township on property described as Lot 2, Blk 1, "Mays Subdivision", Section 4-140-30, PID # 05-354-0120 located at 3954 Mockingbird 4074 Lane NW. An application submitted to expand the existing 24 feet x 30 feet existing residence with a 7 feet x 17 feet addition. The residence is non-conforming because it is located less than 100 feet from the ordinary high water mark (OWHM). The property contains .66 acre riparian to Stony 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 10/04/10. 62 notices of the application were mailed with no responses received. The application was discussed and reviewed with Mr. Foehrenbacher.

MS/P Ballenthin/Fitch to approve the request to expand the non-conforming residence located at PID # 05-354-0120 upon review of Section 805 of the Land Use Ordinance (01/10/10) with the following findings.

Findings:

1. The OWHM for Stony Lake is much more landward than it reasonably appears to be.
2. The residence was permitted by ZP81-140-30-38 at 109 feet from the lake.
3. The small addition will not affect or alter ground or surface water.
4. The small addition will not affect area land use because it will not be visible from the lake or neighboring properties.
5. There is no evidence that financial consideration is the sole basis of the application.
6. The residence will have no bearing to the need the need or demand for governmental services because the property has access to a public road and it will not be connected to a municipal or community waste water treatment system.

Conditions:

1. The addition shall not exceed the 7 feet x 17 feet plus overhang/eave not to exceed.
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 shall not be altered except as allowed by a 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.

Fuller, Scott, Powers Township on property owned by the Ellen Fuller Revocable Trust described as Pt of Gov Lot 4, Section 13-139-30, PID # 34-013-4318 located at 1261 26<sup>th</sup> Ave NW. An application submitted to replace an existing 8 feet 6 inch x 24 feet porch with a 10 feet x 24 feet porch which will not increase setback encroachment to the lake. The residence is non-conforming because it is located 50 feet from the lake. The property contains .57 acre riparian to Big Portage 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 10/05/10. 46 notices of the application were mailed. Two responses both supporting approval of the application were received. The application was reviewed and discussed with Mr. Fuller.

MS/P Ballenthin/Moore to approve the expansion of the residence at PID # 34-013-4318 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 1970 and the residence was permitted to be constructed 50 feet from the lake.
2. ZP83-139-30-27 approved the addition of the existing porch.
3. The addition will occupy the area of the existing porch with a small increase in size which is not a significant variation from the ordinance and will not be noticeable from the lake.
4. The addition will not increase encroachment to the lake.
5. 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.
6. The addition will not affect area land use because similar style is utilized throughout the surrounding area and it will mostly not be visible from the water or neighboring properties.
7. The location and size of the addition reasonable based upon the location, size and configuration of the residence.
8. There is no evidence that financial consideration is the sole basis for variance.
9. The addition will have no bearing to the need or demand for governmental services because the property already has access to a public 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 24 feet 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. A no mow area shall be maintained 20 feet landward from the lake the width of the lot except for a 14 feet wide access area.
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.

Gangelhoff, Jon & Nancy, Hiram Township on property described as Lot 3, "Peaceful Valley", Section 10-141-31, PID # 16-382-0030 located at 4027 Forseman Point Drive NW. An application submitted to replace the existing 24 feet x 54 feet residence/8 feet x 48 deck located 69 feet from the lake with new construction of a 26 feet x 65 feet residence/8 feet x 65 feet deck to be located 61 feet from the lake. The property contains .34 acre riparian to Ten Mile 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 10/04/10. 39 notices of the application were mailed. Two responses supporting approval of the application along with one urging the application be denied were received. The application was reviewed and discussed with Nancy Gangelhoff and the project contractor Kevin Larson.

MS/P Ballenthin/Kostial to approve the expansion of the residence at PID # 34-013-4318 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 1947 and is 120 feet from lake to platted roadway which limit structure location when taking into account 75 feet setback from lake and 20 feet from road.

2. The residence because of lot depth limitation must slightly increase encroachment to the lake.
3. 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 residence will not affect area land use because similar style and construction is utilized throughout the surrounding area and Ten Mile Lake in general.
7. The location of the residence is reasonable based upon the size and configuration of the lot.
8. There is no evidence that financial consideration is the sole basis of the variance.
9. The residence/deck expansion will have no bearing to the need or demand for governmental services because the property has access to a public and is not nor will it be connected to municipal or community waste water treatment system.

Conditions:

1. The expansion of the residence and deck shall not exceed the dimensions shown on the application site plan submitted 09/16/10 with overhang/eave not less than 61 feet from the ordinary high water level (OHWL).
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
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.

Held, David & Eleanor, Woodrow Township 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, amended at the hearing to a 20 feet x 30 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.

Consideration of this application was tabled during the 09/13/10 meeting in order for the applicants and their contractor to consider placement options.

PC members were at the site 9/7/10. 30 notices of the application were mailed for the 09/13/10 and 10/11/10 meetings. Two responses to the 09/13/10 meeting mailing including Woodrow Township both recommending approval of the application were received. No responses to the 10/11/10 meeting mailing were received. The application was reviewed with the applicants' contractor Mr. Ekstrand.

MS/P Ballenthin/Gardner to table consideration of the application until the 11/08/10 meeting in order for the applicants or a representative to be present for discussion and review of the application.

MS/P Ballenthin/Moore to take notice of Mr. Ekstrand's arrival to represent the applicants and to consider the Held application.

MS/P Ballenthin/Kostial to approve the expansion of the residence at PID # 34-013-4318 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 when set back for Big Deep was 85 feet from the lake and that along with wetland and SSTS location limits options to move it away from the lake.
2. 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.
3. The addition will not affect area land use because the residence is similar to adjacent property and that of the Big Deep area and will mostly be not visible from the lake.
4. There is no evidence that financial consideration is the sole basis of the application.
5. Two comments received including Woodrow Township recommend approval.
6. The expansion of the residence will have no bearing to the need the need or demand for governmental services because it is not served by a township roadway and it will not be connected to municipal or community waste water treatment system.

#### Conditions:

1. The expansion shall not exceed 20 feet x 30 feet with overhang/eave not to exceed 2 feet in the configuration submitted 09/07/10.
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.
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 written 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 Land Use Permit for the addition shall be approved prior to submittal and approval of the written plan for vegetation along with submittal of financial assurance in the amount 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. No Land Use Permit for the addition shall be approved prior to ESD determining wetland, if any, in the area proposed for the location of the addition and implementation, if required by ESD, of wetland mitigation measures.
  8. 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.

Hipsher, Diane & Paul, Wabedo Township on property described as N 350 Ft of S 600 Ft of All That Portion of the NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  Lyg & Being E of CSAH 54 and N 350 Ft of S 950 Ft of All That Portion of the NE  $\frac{1}{4}$  SE  $\frac{1}{4}$  Lying & Being E of CSAH 54, Section 3-140-28, PID # 46-003-4204 located at 4544 County 54 NE. An application submitted to be allowed to create a riparian Recreational Development (RD) lot with less than the minimum required buildable area square feet. The proposed lot, which will contain the existing residence, exceeds the minimum width requirements, contains 60,694 square feet total area and 827 square feet buildable area. The applicants intend to request vacation of a portion of the right-of-way of CSAH # 54 which if approved would bring the buildable area to 7,250 square feet. The property contains 2.94 acres riparian to Cooper Lake (RD). Section 1113.1 of the Land Use Ordinance requires that a riparian Recreational Development (RD) lot to contain at least 40,000 square feet total area, 16,000 square feet buildable area and be at least 150 feet wide at the water and at least 150 feet wide at the structure setback which is 100 feet from the water. In addition Section 1116.83 B. of the Land Use Ordinance requires that lots created by conventional subdivision permanently preserve at least 25% of the total area as open space or increase the minimum total lot size by 25%.

PC members were at the site 10/04/10. 27 notices of the application were mailed. One response from Wabedo Township recommending approval of the application was received. The

application was discussed and reviewed with the applicants, the surveyor Bruce Skipton and Shaun Palmer.

MS/P Ballenthin/Moore to approve the division of PID # 46-003-4204 into three parcels, Parcel A - 1.9 acres, Parcel B - 1.4 acres and Parcel C - .7 acres as described and illustrated by Arro Land Surveyors 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 current lot configurations were created prior to adoption of the lot buildable area standards and the current location and right-of-way width of CSAH # 54.
2. The buildable area less than minimum required will create no adverse affect to adjacent property.
3. The lot configuration of the will not affect ground or surface water.
4. The lot configuration will not affect area land use.
5. There is no evidence that financial consideration is the sole basis of the application.
6. The lot configuration will have no bearing to the need the need or demand for governmental services because the property has access to CSAH # 54 and will not be served by a municipal or community waste water treatment system.

Conditions:

1. The lots shall comply with the configuration and dimensions as submitted 09/16/10.
2. The existing shore vegetation shall not be altered except as allowed by a Shoreland Alteration Permit.
3. An alternate waste water soil treatment area must be identified for Parcel B prior to recording.
4. Hipsher and/or Palmer must pursue vacation of excess CSAH # 54 right-of-way by Cass County.
5. The variance action, findings and conditions shall be recorded upon Parcel A, Parcel B and Parcel C.
6. Parcel A is not approved as buildable parcel. Any transfer conveyance of Parcel A shall require that it be combined with one or more abutting parcels into a single parcel which meets all applicable lot standards of Cass County for a buildable lot.
7. Parcel C is not approved as a buildable parcel. Any transfer conveyance of Parcel C shall require that it be combined with one or more abutting parcels into a single parcel which meets all applicable lot standards of Cass County for a buildable lot.

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.

Jorgenson, David & Sandra, Trelipe Township on property described as Lot 11, "Logwood Shores", Section 6-140-27, PID # 44-356-0111 located at 4550 28<sup>th</sup> Ave NE. An application submitted to expand the existing 20 feet x 42 feet non-conforming residence with a 20 feet 22 feet addition non-lakeside. The residence is non-conforming because it is located 57 feet from the lake. The property contains .55 acres riparian to Lake Inguadona (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 10/04/10. 31 notices of the application were mailed with one response received. The application was discussed and reviewed with Jay Riffle.

MS/P Moore/Gardner to approve the expansion of the residence at PID # 44-356-0111 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. VP83-140-27-6 approved setback of 55 feet to lake.
2. The addition will be non-lakeside and visible 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 construction and style is utilized in the area and it will not be visible from the lake.
5. There is no indication that financial consideration is the sole basis of the application.
6. The addition will have no bearing to the need the need or demand for governmental services because the property has access to a public road and it will not be connected to municipal or community waste water treatment system.

#### Conditions:

1. The addition shall not exceed 20 feet x 22 feet plus 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 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.

Kopren, Marnee & Terry, Sylvan Township on property described as Pt of Gov Lot 1, Section 33-133-29, PID # 41-133-1108 located at 956 Camp Jim Road SW. An application submitted to expand the existing 1,013 square feet non-conforming residence with a 1,042 square feet addition/728 square feet attached garage which will not increase encroachment to the lake. The residence is non-conforming because it is located less than 100 feet from the lake. The application also requests placement of a 28 feet x 40 feet storage structure 13.5 feet from the right-of-way of Camp Jim Road. The property contains .98 acres riparian to Hardy 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 B. of the Land Use Ordinance requires structures to be located 20 feet from the right-of-way of a township roadway.

PC members were at the site 10/05/10. 32 notices of the application were mailed with one response from Sylvan Township recommending that approval of the application be denied along with one responses opposed to approval of the proposed accessory structure right-of-way setback. The application was discussed and reviewed with the Koprens and their house designer. Considerable discussion was devoted to the relationship of the location of the proposed addition to the top of a bluff and what effect it might have to the stability of the slope and to the viability of the addition foundation. The Koprens were requested to consider moving the accessory structure location away from the right-of-way to east property boundary line.

MS/P Moore/Ballenthin to approve the expansion of the residence at PID # 44-356-0111 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 prior to the adoption of land us regulations.
2. No permit activity that confirms the date of construction can be located although it appears that it was most likely constructed prior to the adoption of bluff setback requirements and it is not located within the bluff.
3. The expansion of the residence will be in line with the residence.
4. 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.

5. The expansion of the residence will not affect area land use because it will be mostly unobservable from neighbors and traffic and is not dissimilar to other lakeshore style and construction utilized throughout the Hardy Lake area.

5. The location and size of the expansion is reasonable based upon the location, size and configuration of the residence.

6. There is no indication 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 access to a public road and is not nor will it be connected to municipal or community waste water treatment system.

Conditions:

1. The expansion of the residence structure shall not exceed the dimensions shown on the application site plan submitted 09/15/10 plus 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.

6. The applicants must provide an engineered excavation plan for the addition which includes pre-excavation and post-excavation inspections to verify compliance with the plan.

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.

MS/P Ballenthin/Moore to table consideration, to the 11/08/10 meeting, of the location of the accessory structure to a closer boundary line setback in order that the revision be noticed and that Crow Wing State Park administration have an opportunity to comment.

Koshial, Patrick, Powers Township on property described as Lot 2 Lyg N of Twp Rd, "Gillespies Subdivision", Section 10-139-30, PID # 34-367-0021 located at 1872 W Five Point Lake Road NW. An application submitted to expand the existing 24 feet x 28 feet non-conforming residence with a 16 feet x 16 feet addition which will be no closer to the lake than the residence. The residence is non-conforming because it is located 90 feet from the lake. The

property contains 1.0 acre riparian to Five Point 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 10/04/10. 31 notices of the application were mailed with no responses received. The application was discussed and reviewed with Mr. Koshiol.

MS/P Ballenthin/Gardner to approve the expansion of the residence at PID # 34-367-0021 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. No permit activity for the parcel can be confirmed therefore it is reasonable to assume the original residence was constructed at less than the required lake setback prior to the adoption of land use regulation.
2. The expansion of the residence will be to the side of the residence which will not increase encroachment to the lake which is not a substantial variation from the ordinance standards.
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 along the road and in the Five Point Lake area in general and because it will not be a significant alteration to its view from the lake.
5. The location and size of the expansion is reasonable based upon the size 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 access to a public 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 16 feet x 16 feet plus 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 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.

Matuska, Neal, Trelipe Township on property described as N300 Ft of E150 Ft of NW NE, Section 11-140-27, PID # 44-111-1203 located at 4325 Cty 7 NE. An application submitted "after the fact" to retain a 24 feet x 24 feet garage located 31 feet from the right-of-way of CSAH # 7. The property contains 1.03 non-riparian acres. 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 10/04/10. 15 notices of the application were mailed with no responses received. The application was discussed and reviewed with Mr. Matuska.

MS/P Moore/Kostial to approve the location of the garage located at PID # 44-367-0021 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 setback from the right-of-way of CSAH # 7 was approved by ZP10-140-27-8.
2. The setback encroachment is not significant and not objected to by Cass County Highway Department.
3. The garage location does not affect ground or surface water.
4. The garage location has no bearing to area land use.
5. There is no evidence that financial consideration is the sole basis of the application.
6. The garage has no bearing to the need or demand for governmental services because the property has access to CSAH # 7 and is not connected to a municipal or community waste water system.

Mueller, Mark, Inquadona Township on property described as Lot 8, "Holiday Acres", Section 7-141-27, PID # 18-358-0080 located at 6123 Macemon Road NE. An application submitted to be allowed to exceed the total maximum area of accessory structure allowed based on lot size. The property currently contains three accessory structures which contain 736 square feet. The application calls for a 32 feet x 40 feet accessory structure containing 1,280 square feet which will result in the lot occupied by 2,016 square feet of accessory structure. The property contains .88 acres riparian to Long Lake (GD). Section 1101 of the Land Use Ordinance limits the total area of accessory not to exceed 1,200 square feet for riparian lots that contain .5 - .99 acre.

PC members were at the site 10/04/10. 38 notices of the application were mailed with no responses received. The application was discussed and reviewed with Mr. Mueller.

MS/P Kostial/Ballenthin to allow the applicant to exceed the maximum square footage of accessory structure based upon lot size upon PID # 18-358-0080 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 1961 prior to the adoption of accessory structure size linked to lot size.
2. The amount over the maximum allowed is a space of about 28 feet x 29 feet 816 square feet is not significant in terms of its location screened from the lake and neighboring 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 structures are located along Macemon Road.
5. There is no evidence that financial consideration is the sole basis of the application.
6. No comments were received from Inguadona Township, agencies or persons notified.
7. The structure will have no bearing to the need the need or demand for governmental services because the property has access to Macemon Road and will not be connected to a municipal or community waste water treatment system:

Conditions:

1. The structure shall not exceed 32 feet x 40 feet plus overhang/eave not to exceed two feet and not be less than 113 feet to the lake and not be less than 35 feet from the driving surface of Macemon Road.
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. 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,  
REVOCAION 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 09/08/10 and 10/05/10. 50 notices of the application were mailed for both meetings. Three responses objecting to the application along with a response from Sylvan Township recommending approval were received from the 09/08/10 meeting notice. One response supporting approval of the application was received from the 10/11/10 meeting notice. In addition, a letter from the applicants describing explaining their situation and request was received and presented to the members. The application was reviewed with the Porters' representatives from Northway Construction and RemWhirl. Discussion included residence footprint, run-off, shoreline vegetation, lakeside impervious coverage reduction options and alternative placement options.

MSP Moore/Fitch - Ballenthin-Yes, Bliss-Yes, Gardner-No, Fitch-Yes, Kostial-Yes, Moore-Yes to approve the construction of a residence within the bluff area located at PID # 41-456-0532 upon review of Section 800 of the Land Use Ordinance (01/10/10) with the following findings and conditions.

Findings:

1. The lot was created in 1923 prior to the adoption of land use regulation and bluff setback requirements.
2. The current residence was constructed within the bluff area with permit in 1978.
3. The residence will exceed the required lake setback.
4. The proposed site is reasonable when considering the most of the lot consists of a bluff and that utilization of the site of the current residence will result in less excavation and disruption.
5. 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.
6. The residence will not affect area land use because similar style and construction is common along Lower Sylvan Road.
7. There is no evidence that financial consideration is the sole basis of the application.
8. Approval will result in improved lakeside landscape and run-off control.

9. Sylvan Township has recommended approval.
10. The residence will have no bearing to the need the need or demand for governmental services because there is already access to a township roadway nor will it be connected to municipal or community waste water treatment system.

Conditions:

1. The residence footprint dimensions and location shall not exceed those of the site plan page A2 submitted 06/16/10.
2. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal facility.
3. The erosion control plan dated 09/10/10, together with changes, if any, required by ESD with regard to construction erosion control, shall be implemented and placed prior to the commencement of demolition and 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 written 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 provide for 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. The conditions recommended by Sylvan Township are adopted and included for implementation.
  - a. On lake shore allow only 14' water access ramp to dock.
  - b. Restore all other lower lake areas to natural setting with Arborist directing required plantings.
  - c. Create a berm sloped away from the lake at existing grass edge with planting necessary to hold the berm thus minimizing any discharge into the lake.
  - d. Drainage basin near driveway will be maintained as sediment may need removal.
  - e. Create drainage on north hill and direct water to rock bed of the porous pavers of the lower deck.
8. Dimensional to scale footprint and elevation drawings must be submitted in order to obtain land use permit approval.
9. A dimensional to scale drawing of the stairway and lake access area must be submitted in order to obtain land use permit approval.

10. As-built dimensional to scale drawings of the residence shore impact zone must be submitted upon completion of construction.
11. 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.

Wagner, Myles, Woodrow Township on property described as Lots 35 & 36, Blk 5, "End O The Trail", Section 11-140-29, PID # 51-402-0591 located at 4074 Hawk Trail NW. An application submitted to remove the existing residence and replace with new 26 feet x 37 residence to be located 63 feet from the lake. The property contains .3 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 10/04/10. 39 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 Mr. Wagner.

MS/P Kostial/Fitch to approve the application as submitted to allow the placement of a residence at less than the required lake setback for PID # 51-402-0591 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 1920 prior to the adoption of land use regulation and minimum lot size requirements.
2. The depth of the lot of 91 feet to 133 feet when compared to setback requirements of 75 feet from the lake and 50 feet from CSAH # 5 allows for no area of compliance.
3. 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 residence will not affect area land use because similar construction and style is utilized along CSAH # 5 and the Woman Lake area.
5. There is no evidence that financial consideration is the sole basis of the application.
6. The residence will have no bearing to the need the need or demand for governmental services because the property has access to CSAH # 5 and it will not be connected to a municipal or community waste water treatment system.



Conditions:

1. The residence shall not exceed the dimensions of the site plan submitted 08/24/10 plus overhang/eave not to exceed 2 feet not less than 63 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. Shore vegetation/re-vegetation shall be installed and maintained, subject to 14 feet wide lake access area, in a buffer area as determined by ESD as follows: The applicant shall develop a written 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 restoration of a soil berm on the lakefront and removal of rocks on shoreline in buffer zone and removal of fire pit to Shore Impact Zone 2.
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. No permit to build the approved structures shall be issued until the earlier of the following at the applicant's option: Completion of substantial implementation of the vegetation plan, as determined by ESD or Deposit of financial assurance with ESD in the amount as described in Condition # 6.
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.

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 1106.2 of the Land Use Ordinance establishes shoreland zone earthmoving criteria.

PC members were at the site 09/07/10. 48 notices of the application were mailed for the 09/13/10 and 10/11/10 meetings. Three responses objection to approval of the application along with two responses supporting approval of the application were received from the 09/13/10 meeting mailing. One response was received from the 10/11/10 meeting mailing. The application was reviewed and discussed with Sue and Tim Anderson.

MS/P Ballenthin/Moore to approve the earth work project for PID # 45-135-1405 upon review of Sections 705 and 1106.2 of the Land Use Ordinance (01/10/10) with the following findings and conditions.

#### Findings:

1. The property has historically been occupied and configured as a resort.
2. The existing activity seems not to be disruptive to the neighborhood based on no record of concerns or complaints made to ESD.
3. No wetland or critical habitat is affected.
4. No scenic or historic features are affected.
5. The excavation poses no particular likelihood to harm to public health, safety or welfare.
6. The project will result in improved run-off control and shoreline vegetation.
7. The project 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. 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 an area as determined by the Aspen Construction plan received 10/06/10 subject to ESD review and approval.
3. 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.

4. Shore recreation facilities including the beach and swimming area but exclusive of the existing harbor shall be located within the area shown on the erosion control plan an area approximately 150 feet in width along the shore.
5. 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.

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 for the 09/13/10 and 10/11/10 meetings. Six responses objecting to approval of the application along with two responses including Wabedo Township recommending approval of the application were received. The application was discussed and review with Kathy and Mike Bayer. Discussion included land use classification, land use/resort history of the property, shower house conversion, neighbors' complaints, shoreline buffers applicable MN DOH resort standards and the definition of retreat.

MS/P Ballenthin/Moore to deny the application to reclassify PID # 46-023-3405 to Water Oriented Commercial (WOC) in order to establish a resort upon review of Sections 705, 901 and 1104.9 of the Land Use Ordinance (01/10/10) with the following findings.

1. Although the property was used as a resort in the past, that use was abandoned and the property was reclassified to Shoreland Residential (SR). To again operate as a resort, the proposed resort must comply with the standards for a new resort and that because of the size and configuration of the property along with the cabins, compliance is not possible.
2. The proposed resort must comply with applicable MN DOH resort cabin standards and that because of the size and configuration of the cabins, compliance is not possible.
3. The property re-classification moot because it cannot be designated a resort.

Mills, Gerald, Fairview Township on property described as Pt of NE NW, Section 12-134-30, PID # 14-112-2103 located at 2369 100<sup>th</sup> St SW. An application submitted to reclassify the property from Agriculture/Forestry (AF) to Rural Residential - 2.5 (RR-2.5). The property contains 10.59 acres. Section 705 of the Land Use Ordinance establishes CUP review criteria. Section 901 of the Land Use Ordinance establishes and describes land use districts.

PC members were at the site 10/05/10. 41 notices of the application were mailed. Two responses were received. Knife River noted their intent to continue their gravel operation along CSAH # 15 until the resource is exhausted and Fairview Township recommending approval of the application. The application was reviewed with Mr. Mills.

MS/P Ballenthin/Moore to approved the reclassification of PID # 14-112-2103 from Agriculture/Forestry (AF) to Rural Residential - 2.5 (RR-2.5) upon review of Sections 705, 901 and 903.4 of the Land Use Ordinance (01/10/10) with the following findings.

Findings:

1. As described in Section 903.4 of the Land Use Ordinance, the application complies with Rural Residential - 2.5 (RR-2.5) which is to "promote low density rural development".
2. The property abuts similar classified property along the south side of CSAH # 15.
3. No wetland or critical habitat is contained or near the area to be reclassified.
4. No scenic or historic features are contained or near the area to be reclassified.
6. The result of reclassification will be single family residential which will not allow for uses that could harm public health, safety or welfare.
7. The property will not require road improvement.
8. The acreage of the reclassification of property does not reach EAW threshold.
9. No comments were received from Fairview Township, agencies or persons notified.

Final Plat

"The Woods of Diamond Point", Pine Lake Township on property described as S  $\frac{1}{2}$  of SW NE, Section 3-141-29, PID # 30-003-1302 located on the east side of Diamond Point Road about two miles north of TH # 200. The plat contains nine single family residential lots and one outlot. The property contains 18.84 non-riparian acres within the shoreland zone (1,320 feet) of Leech Lake (GD). The preliminary plat was approved 12/26/07.

PC members were at the site 10/04/10. 90 notices of the final plat were mailed. Three responses supporting approval of the plat were received. The final plat was reviewed with Mr. Johnson and Mr. Freeman.

MS/P Kostial/Fitch to approved the final plat of "The Wood of Diamond Point" upon review of Article 5 of the Subdivision and Platting Ordinance Land Use Ordinance (03/01/09) with the following findings.

Findings:

1. The County Surveyor has reviewed and approved the final plat.
2. There are no significant revisions from the preliminary plat approved 12/26/07.
3. A wetland delineation has been submitted.

4. SSTS site evaluations for each lot have been submitted.
5. A road construction/erosion control plan has been submitted.
6. A SWWWP has been submitted.
7. The lots comply with the minimum non-riparian GD size criteria per 2007.
8. The phase one archeological report has been submitted.
9. The plat does not reach the mandatory EAW/EIS review standards.
10. The plat complies with the road access criteria.
11. No comments have been received from Pine Lake Township or other agencies notified.
12. Final plat submittal was extended per ESD.

#### Other Business

1. Request to be heard received from John Swailes. Mr. Swailes requests extension of the expiration of VP08-134-29-1 which was approved 01/12/09.

MS/P Fitch/Moore to extend the expiration of VP08-134-29-1 to 01/12/13 as requested.

MS/P Kostial/Fitch at 5:50 p.m. to adjourn.

P. Fairbanks