



Cass County  
Planning Commission/Board of Adjustment

June 13, 2011

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting June 13, 2011 in the meeting room of the Cass County Land Department in Backus. The field inspection was conducted June 6, 2011.

Sundberg called the meeting to order at 9:10 a.m.

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

Staff Present: Berg, Fairbanks, and Ringle.

Citizens Present: Brian Alto, Cindy Alto, Shea Alto, Albert Chacey, Chuck Cowan, Marlene Cowan, Marilyn Davis, Cheryl DeBrown, John Eaton, Dave Frana, Jackie Frana, John Hopen, Kathleen Hopen, Dennis Johnson, Russell Link, Mara Loomis, Mitch Loomis, Kevin Monnens, Grant Oppegaard, Kris Oppegaard, Kathleen Ostlund, Deb Schultz, Russ Schultz, Norm Wieland, Jacob Woodworth.

MS/P Fitch/Gardner to approve the minutes of the 05/09/11 PC/BOA meeting as presented.

Variance

Caldwell, Dawn & Robert, Wilson Township on property described as part of SW SW, Section 5-137-29, PID # 50-005-3310 located at 2729 State 371 SW. An application submitted to expand the non-conforming care facility with 14 feet x 23 feet and 12 feet x 19 additions. The care facility structure is non-conforming because it is located 90 feet from Norway Brook. Section 1126.1 A. of the Land Use Ordinance requires structures to be located 100 feet from streams/river classified Tributary (TR). Section 1115.3 of the Land Use Ordinance allows for the expansion of a non-conforming structure only by variance. The property contains 1.22 acres riparian to Norway Brook (TR).

PC members were at the site 06/06/11. 47 notices of the application were mailed. No responses were received. The application was discussed and reviewed with Mr. Caldwell.

MS/P Ballenthin/Kostial to approve the application to expand the structure located upon PID # 50-005-3310 upon review of Section 800 of the Land Use Ordinance (01/10/10) along with criteria contained in M.S. 394.27, Subdivision 7 along with the following findings and conditions.

Findings:

1. The original structure was constructed in 1962 prior to the adoption of land use regulation at 90 feet from Norway Brook which is less than the current required setback of 100 feet and the application has been revised to reflect 16 feet x 20 feet and 13 feet 4 inch x 23 feet 8 inch additions.
2. The proposed expansion is modest in size when compared with the existing structure and is setback further from the river than the existing encroachment; therefore it can be concluded that a variance for the expansion does not contradict the purpose of the Land Use Ordinance, which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
3. In addition to finding # 2, the proposed expansion continues a use permitted by CU03-137-29-2 and does not materially alter that use; therefore it can be concluded that a variance for the expansion does not contradict the purpose of the comprehensive plan which is to: 1. Provide a rational basis to make land and resources decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning and 4. Protect the County's resources from degradation.
4. The proposed expansion size is a modest expansion of two existing bedrooms and of storage space which is neither excessive nor extreme and therefore can be deemed reasonable.
5. The applicants did not construct the original structure at less than the required setback which makes it non-conforming and therefore did not create the need for variance.
6. The proposed expansion will not affect area land use because there are no directly adjacent commercial or residential neighbors and because the proposed expansion will not significantly alter its view from the river or TH # 371.
7. There is no reason to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: No permit to implement shall be issued until and if:

1. ESD required and approved erosion control is installed.
2. A written plan for native vegetation is approved by ESD and agreed to be implemented by applicant.
3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1.00 per square foot of the buffer area for no-mow or \$3.00 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other Conditions as set forth.

NOTICE TO THE APPLICANT: No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a Permit until inspection by ESD, correction of any circumstances in violation of laws or ordinances or the terms of this Variance, deposit of

financial assurance as determined by ESD to secure correction of violations and completion of other measures required by ESD.

Conditions:

1. The expansion shall not exceed an addition of 16 feet x 20 feet and an addition of 13 feet x 23 feet x 8 inches.
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 river or to adjoining properties is permitted. The approved expansion and structure, 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 river and adjoining properties.
5. Existing shore vegetation must be maintained.
6. Applicants consent 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.

Camp Olson/Russ Link, Wabedo Township on property described as SE SE, Section 3-140-28, PID # 46-003-4400 located at 4162 Little Boy Road NE. An application submitted to construct a 36 feet x 60 feet structure located 65 feet from the lake to be utilized as a trips center and to construct a 10 feet x 14 feet structure located 20 feet from the lake to be utilized as boat storage. The project will include the removal of five dilapidated structures also less than 100 feet from the lake. Section 1126.1 A. of the Land Use Ordinance requires structures to be located 100 feet from lakes classified Recreational Development (RD). The property contains 24.9 acres riparian to Cooper Lake (RD).

PC members were at the site 06/06/11. 17 notices of the application were mailed. One response from Wabedo recommending approval with conditions was received. The application was reviewed and discussed with Camp Olson CEO Russ Link.

MS/P Kostial/Bliss to approve the application as submitted and reviewed for PID # 46-003-4400 upon review of Section 800 of the Land Use Ordinance (01/10/10) along with criteria contained in M.S. 394.27, Subdivision 7 along with the following findings and conditions.

## Findings:

1. The former resort structures to be removed were constructed prior to the adoption of land use regulation and are located less than the current required setback of 100 feet.
2. The proposed replacement structure will be further from the lake but cannot comply with required setback due to the location of the access road to the property and adjacent wetland.
3. The proposal includes removal of existing structure very close to the lake and replacement with new construction setback substantially further from the lake; therefore it can be concluded that a variance for the new construction does not contradict the purpose of the official control, the Land Use Ordinance, which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
4. In addition to Finding # 3, the proposed new construction does not expand upon existing square feet of structure and does materially alter an existing use and it is not materially larger than the replaced structures; therefore it can be concluded that a variance for the replacement construction does not contradict the purpose of the comprehensive plan which is 1. To provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
5. The proposed replacement construction is not excessive or extreme of size or configuration therefore can be deemed reasonable.
6. Camp Olson did not construct the original structures and the need for variance is due to unique configuration of the property along with location of wetland therefore the applicant did not create the need for variance.
7. The proposed construction will not affect area land use because there are no directly adjacent neighbors and because it will not significantly alter its view from the lake.
8. There is no reason to conclude that financial consideration is the sole reason for the application.
9. The boathouse to be replaced may be setback further from the lake than proposed without impairing its function or purpose or otherwise materially adversely impairing use of the property.

NOTICE TO APPLICANT: No permit to implement shall be issued until and if:

1. ESD required and approved erosion control is installed.
2. A written plan for native vegetation is approved by ESD and agreed to be implemented by applicant.
3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1.00 per square foot of the buffer area for no-mow or \$3.00 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other Conditions as set forth.

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

Conditions:

1. The dimensions and location of the structures shall not vary from the site plan submitted with the application 04/28/11, except that the boathouse setback shall be increased and the boathouse shall be located on the "flat" area above the proposed location or at the location of the 21 feet x 25 feet resort cabin 37 feet from the lake and shall not be located into the bank as proposed.
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 is permitted. The approved structures, 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 lakes.
5. Existing shore vegetation must be maintained.
6. 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.

Monnens, Kevin & Susan, Barclay Township on property described as W  $\frac{1}{2}$  NW, Section 16-138-29, PID # 02-016-2204 located at 901 State 84 SW. An application submitted to construct a 14 feet x 24 feet accessory structure/garage to be located 97 feet from Swede Lake (NE) and at less than the required setback from the right-of-way of TH # 84. Section 1126.1 B. of the Land Use Ordinance requires structures to be located 150 feet from lakes classified natural Environment (NE). Section 1126.1 B. of the Land Use Ordinance requires structures to be setback 50 feet from the right-of-way of a state highway. The property contains 3.96 acres riparian to Swede Lake (NE).

PC members were at the site 06/06/11. 33 notices of the application were mailed. No responses were received. The application was discussed and reviewed with Mr. Monnens.

MS/P Kostial/Bliss to approve the application as submitted and reviewed for PID # 46-003-4400 upon review of Section 800 of the Land Use Ordinance (01/10/10) along with criteria contained in M.S. 394.27, Subdivision 7 along with the following findings and conditions.

Findings:

1. The lot was created in 1975 and no permit activity in the system prior to 2000 when the septic system was installed therefore it can be assumed that the residence was constructed prior to land use regulation.
2. The lot in the area where the residence is located and the garage is proposed to be located is too narrow to meet lake and r-o-w setback.
3. A modest sized garage, as proposed by the applicant, is a reasonable use of residential property and located as proposed, subject to the conditions, will not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
4. The proposed new construction is modest in size and located in a manner to as least obtrusive for the lake and highway which does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
5. The proposed garage size is not excessive or extreme and can be deemed reasonable.
6. The need for variance is due to unique configuration of the property which was created in 1975 prior to ownership by the applicant.
7. The proposed construction will not affect area land use because there are no directly adjacent neighbors and because it will be mostly screened for the lake and highway.
8. There is no reason to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: No permit to implement shall be issued until and if:

1. ESD required and approved erosion control is installed.
2. A written plan for native vegetation is approved by ESD and agreed to be implemented by applicant.
3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1.00 per square foot of the buffer area for no-mow or \$3.00 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other Conditions as set forth.
5. MN DOT identifies the boundaries of the right-of-way of TH # 84.

NOTICE TO THE APPLICANT: No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a Permit until inspection by ESD, correction of any

circumstances in violation of laws or ordinances or the terms of this Variance, deposit of financial assurance as determined by ESD to secure correction of violations and completion of other measures required by ESD.

Conditions:

1. The dimensions of the garage shall not exceed 14 feet x 24 feet.
2. The final location of the garage from the lake and highway must be confirmed by ESD prior to the commencement of construction and the garage shall be constructed at that location.
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 river or to adjoining properties is permitted. The approved expansion and structure, 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 river and adjoining properties.
5. Existing shore vegetation must be maintained.
6. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
7. The recreational vehicle shall not be permanently located on the property.

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.

Schonwise, Marc, Woodrow Township on property described as Lot 3, Block 1, "Johnsons Evergreen Shores", Section 24-140-29, PID # 51-473-0130 located at 3185 Tabaka Drive NW. An application submitted to expand the existing non-conforming residence with 22 feet x 24 feet second floor addition to the attached garage. The residence is non-conforming because it is located less than 10 feet from the closest property boundary line. Section 1126 1. B. of the Land Use Ordinance requires structures to be located 10 feet from a property boundary line. Section 1115.3.B. of the Land Use Ordinance allows for the expansion of a non-conforming residence only by variance. The property contains .32 acre riparian to Woman Lake (GD).

PC members were at the site 06/06/11. 36 notices of the application were mailed. One response from Woodrow Township recommending approval with conditions was received. The application was discussed and reviewed with Mr. Schonwise's representative Mr. McDonald.

MS/P Ballenthin/Gardner to approve the expansion of the residence located at PID # 51-473-0130 upon review of Section 800 of the Land Use Ordinance (01/10/10) along with criteria contained in M.S. 394.27, Subdivision 7 with the following findings and conditions.

## Findings:

1. From a 1972 permit it appears that area of the residence to be expanded for the second level was permitted as a detached garage 2 feet 8 inches from the property line and the garage was subsequently attached to the residence.
2. The proposed second floor expansion will not alter existing setbacks.
3. The proposed expansion which will not affect footprint, may increase side yard and lakeside run-off due to the altered roof line does not affect setback and subject to conditions, does not contradict the purpose of the official control, the Land Use Ordinance, which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, general welfare.
4. The proposed expansion does not expand existing footprint of the structure and subject to conditions it can be concluded that no substantial increase in run-off can be anticipated therefore a variance does not necessarily contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land use and resource use decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local government and the citizens in land use planning, and 4. Protect the County's natural resources for degradation.
5. The proposed replacement construction is not excessive or extreme in size therefore can be deemed reasonable.
6. The applicant did not construct the original structures and the need for variance is due to the location of the residence on the lot therefore the applicant did not create the need for variance.
7. The proposed expansion will not affect area land use because there are other residences in the area with second stories and the expansion will not significantly alter its look from the lake and it will not obstruct the closest neighbor's view shed.
8. There is no reason to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: No permit to implement shall be issued until and if:

1. ESD required and approved erosion control is installed.
2. A written plan for native vegetation is approved by ESD and agreed to be implemented by applicant.
3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1.00 per square foot of the buffer area for no-mow or \$3.00 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other Conditions as set forth.

NOTICE TO THE APPLICANT: No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a Permit until inspection by ESD, correction of any circumstances in violation of laws or ordinances or the terms of this Variance, deposit of



financial assurance as determined by ESD to secure correction of violations and completion of other measures required by ESD.

Conditions:

1. The expansion shall not exceed 22 feet x 24 feet x 20 feet to the peak second story addition to the attached garage.
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 or 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 be maintained in its existing type, configuration, and density or as determined by ESD shall be installed and maintained in a buffer area, subject to a 14 feet wide lake access area. The applicant shall submit a written plan for a native vegetation buffer to reduce/eliminate nutrient run-off to the lake which shall have written approval by ESD. The plan shall include a schedule for implementation and an estimate of the cost to implement. The plan shall include a buffer within an area defined in the plan and approved by ESD.

Financial assurance shall be returned to the applicant upon a schedule approved by ESD and in all events upon substantial implementation of the vegetation plan as determined by ESD. Portions of the approved plan for vegetation not completed in accordance with the implementation 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 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.

Schultz, Debra & Russell, Wabedo Township on property described as Pt of SW SE, Section 3-140-28, PID # 46-003-4302 located at 4412 Cooper Lake Road NE. An application submitted to expand the existing non-conforming residence with 12 feet x 13 feet and 18 x 26 feet additions and a detached 24 feet x 30 feet garage to be located 66 feet from the lake. The residence is non-conforming because it is located 50 feet from the deck to the lake. Section 1126 A. 1. of the Land Use Ordinance requires structures to be located 100 feet from a lake classified Recreational Development (RD). Section 1115.3.B. of the Land Use Ordinance allows for the

expansion of a non-conforming residence only by variance. The property contains 1.32 acres riparian to Cooper Lake (RD).

PC members along with Wabedo Township PC members were at the site 06/06/11. 15 notices of the application were mailed. One response from Wabedo Township recommending approval with conditions was received. The application was discussed and reviewed with Mr. Schultz.

MS/P Moore/Ballenthin to residence expansion and detached garage for PID # 46-003-4302 upon review of Section 800 of the Land Use Ordinance (01/10/10) along with criteria contained in M.S. 394.27, Subdivision 7 with the following findings and conditions.

#### Findings:

1. According to a 1973 permit for a boathouse, the residence was already located at current setback.
2. The expansion of the residence will not reduce existing setback.
3. The proposed expansion which will not reduce setback does not contradict the purpose of the official control, the Land Use Ordinance, which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, general welfare.
4. The proposed expansion does not reduce existing setback and it can be concluded that a variance does not necessarily contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource use decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
5. The proposed expansion and garage are not excessive or extreme in size and can be deemed reasonable.
6. The applicant did not construct the original structure and the need for variance is due to the location of the residence and the width of the lot therefore the applicant did not create the need for variance.
7. The proposed expansion and garage will not affect area land use because there are no adjacent residences in the area and will not significantly alter the look from the lake.
8. There is no reason to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: No permit to implement shall be issued until and if:

1. ESD required and approved erosion control is installed.
2. A written plan for native vegetation is approved by ESD and agreed to be implemented by applicant.
3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1.00 per square foot of the buffer area for no-mow or \$3.00 per square foot for all other vegetative buffers or if less 125% of the cost estimate.

4. As required by other Conditions as set forth.

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

Conditions:

1. The expansion and garage shall not exceed the dimensions and setbacks as shown on the site plan submitted 06/06/11.
2. ESD must confirm the setback of the garage from the lake prior land use permit authorization.
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 or 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 shall be maintained in its existing type, configuration, and density or as determined by ESD shall be installed and maintained in a buffer area, subject to a 14 feet wide lake access area. The applicant shall submit a written plan for a native vegetation buffer to reduce/eliminate nutrient run-off to the lake which shall have written approval by ESD. The plan shall include a schedule for implementation and an estimate of the cost to implement. The plan shall include a buffer within an area defined in the plan and approved by ESD.
7. The applicants have voluntarily confirmed their intent to remove the existing non-conforming storage structure.

Financial assurance shall be returned to the applicant upon a schedule approved by ESD and in all events upon substantial implementation of the vegetation plan as determined by ESD. Portions of the approved plan for vegetation not completed in accordance with the implementation 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 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.

Wear, Larry & Susan, Birch Lake Township on property described as NWLY 90 Ft of "Peaceful Shores", Section 13-140-31, PID # 16-410-0111 located at 4949 Woodland Drive NW. An application submitted to expand the existing non-conforming residence with a 14 feet x 28 feet addition. The residence is non-conforming because it is located less than 75 feet from the lake. Section 1126 A. of the Land Use Ordinance requires structures to be located 75 feet from a lake classified General Development (GD). Section 1115.3.B. of the Land Use Ordinance allows for the expansion of a non-conforming residence only by variance. The property contains .66 acre riparian to Birch Lake (GD). Consideration of this application was tabled during the 05/09/11 meeting in order the applicants and a representative to be present.

PC members were at the site 05/02/11. More than 50 notices of the application were mailed. One response offering no objection to the application was received. The application was discussed and reviewed with the applicants' representative Mr. Ford.

MS/P Moore/Kostial to approve the expansion for the non-conforming residence located at PID # 16-410-0111 upon review of Section 800 of the Land Use Ordinance (01/10/10) along with criteria contained in M.S. 394.27, Subdivision 7 along with the following findings and conditions.

Findings:

1. The lot was created in 1946 prior to the adoption of land use regulation.
2. The residence was constructed with permit in 1971.
3. The proposed expansion which will not reduce setback does not contradict the purpose of the official control, the Land Use Ordinance, which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and also to promote the health, safety, general welfare.
4. The proposed expansion does not reduce existing setback and it can be concluded that a variance does not necessarily contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult for land use and resource decisions wisely, 2. Eliminate conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning and 4. Protect the County's natural resources from degradation.
5. The proposed expansion is not excessive or unusual in size and can be deemed reasonable.
6. The applicant did not construct the original structure and the need for variance is due to the location of the residence therefore the applicant did not create the need for variance.
7. The proposed expansion will not affect area land use because there is similar construction in the area in the area and it will not be visible form the lake.
8. There is no reason to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: No permit to implement shall be issued until and if:

1. ESD required and approved erosion control is installed.
2. A written plan for native vegetation is approved by ESD and agreed to be implemented by applicant.
3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1.00 per square foot of the buffer area for no-mow or \$3.00 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other Conditions as set forth.

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

Conditions:

1. The expansion shall not exceed 14 feet x 28 feet.
2. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal facility.
3. ESD must determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
4. No storm water run-off to the lake 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 and adjoining properties.
5. Shore vegetation shall be maintained in its existing type, configuration, and density or as determined by ESD shall be installed and maintained in a buffer area, subject to a 14 feet wide lake access area. The applicant shall submit a written plan for a native vegetation buffer to reduce/eliminate nutrient run-off to the lake which shall have written approval by ESD. The plan shall include a schedule for implementation and an estimate of the cost to implement. The plan shall include a buffer within an area defined in the plan and approved by ESD.

Financial assurance shall be returned to the applicant upon a schedule approved by ESD and in all events upon substantial implementation of the vegetation plan as determined by ESD. Portions of the approved plan for vegetation not completed in accordance with the implementation 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 conditions.

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

Variance/Conditional Use Permit

Hopen, John, Shingobee Township on property described as Part of Gov Lot 2, Section 2-141-31, PID # 38-002-4109 located at 6917 Winterberry Trail NW. An application submitted to excavate up to 900 cubic yards of earthen material within a bluff setback area in order for the applicant to access a garage located on the property. Alternate access is required because current access by easement is to be extinguished by the land owner. Section 705 of the Land Use Ordinance establishes conditional use permit review criteria. Section 1106.2 requires a conditional use permit for the movement of more than 200 cubic yards of earthen material within the shoreland zone which is the area 1,320 feet from public waters. Section 1106.3 limits the movement of earthen material within a bluff impact zone to the placement of stairways, landings or access paths. The property contains .87 acre riparian to Leech Lake (GD).

PC members were at the site 06/06/11. More than 75 notices of the application were mailed. No responses were received. The application was discussed and reviewed with the Hopens.

MS/P Moore/Fitch to approve the excavation and excavation within the bluff impact zone located at PID # 38-002-4109 upon review of Sections 705, 800 and 1106 of the Land Use Ordinance (01/10/10) along with criteria contained in M.S. 394.27, Subdivision 7 with the following findings and conditions.

Findings:

1. The lot was created in 1985 prior to the administration of bluff zone standards.
2. No permit activity can be located but it can be assumed that the residence was constructed prior to the administration of bluff zone standards.
3. The proposed excavation will not affect run-off to the lake setback and does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and also to promote the health, safety, general welfare.
4. The proposed excavation does not reduce existing setback and it can be concluded that a variance does not necessarily contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource use decisions wisely, 2. Eliminate conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning and 4. Protect the County's natural resources from degradation.
5. The applicant did not create the need for variance which is due to unique property circumstances in the area.

6. The proposed excavation will not affect area land use because it seem that it will not impact neighboring property of be visible from the lake.
7. There is no reason to conclude that financial consideration is the sole reason for the application.
8. The excavation will have no affect to streets, utilities, or other public facilities and require no additional public infrastructure.
9. No wetland or critical habitat will be disturbed by the excavation.
10. No scenic or historic features will be affected by the excavation.
11. No unusual threat to public health, safety or welfare can be expected from the excavation.

NOTICE TO APPLICANT: No permit to implement shall be issued until and if:

1. ESD required and approved erosion control is installed.
2. A written plan for native vegetation is approved by ESD and agreed to be implemented by applicant.
3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1.00 per square foot of the buffer area for no-mow or \$3.00 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other Conditions as set forth.

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

Conditions:

1. The excavation shall not exceed the dimensions shown on the site plan submitted with the application 05/16/11.
2. ESD must determine the need for pre-construction and post construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement and completion of construction.
4. No storm water run-off to the lake or to adjoining properties shall be permitted and the applicant shall submit a written plan for a native vegetation buffer to reduce/eliminate nutrient run-off to the lake which shall have written approval by ESD. The plan shall include a schedule for implementation and an estimate of the cost to implement. The plan shall include a buffer within an area defined in the plan and approved by ESD.
5. The vegetative plan shall include vegetation to restore the top of the bluff to the vegetative state prior to excavation. In particular, when viewed form the lake the top of the bluff when restored shall have a natural vegetative appearance without evidence of clearing or opening.
6. There shall be no vegetative disturbance for the top of the bluff to the lake.
7. The amount of excavated material shall not exceed 450 cubic yards.

Financial assurance shall be returned to the applicant upon a schedule approved by ESD and in all events upon substantial implementation of the vegetation plan as determined by ESD. Portions of the approved plan for vegetation not completed in accordance with the implementation 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 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

Oppegaard Irrevocable Real Estate Trust, Shingobee Township on property described as Pt of Gov Lots 3 & 4, Section 9-142-31, PID # 38-109-3101 located at 6140 Morriss Point Road NW. An application submitted to reclassify the property from Shoreland Residential (SR) to Water Oriented Commercial (WOC) for the purpose of the residences on the property to be managed for rental by Shores of Leech Lake Resort when not being occupied by the owners. Section 705 of the Land Use Ordinance establishes conditional use permit review criteria. Section 706 of the Land Use Ordinance establishes reclassification standards. Section 1000 of the Land Use Ordinance describes the various land classifications. The property contains 2.6 acres riparian to Leech Lake (GD).

PC members were at the site 06/06/11. More than 75 notices of the application were mailed. One response favoring the application and two opposed to the application were received. The application was discussed and reviewed with the applicant's representative Mr. Baker. Discussion included land use history of the property, traffic, parking, the proposed management arrangement, new resort, resort expansion and if Shores of Leech Lake Resort should be included in the application and review.

MS/P Moore/Gardner to table consideration of the application until the 07/11/11 meeting and to request that Shores of Leech Lake Resort enter into the process as an applicant or co-applicant and submit more information as to occupant parking, trailer parking, harbor use, density and shoreline vegetative mitigation.

#### Other Business

Request to be heard received from Allan and Mary Jo Glad to review Condition # 1. Shoreline vegetation, of VP10-139-26-2 approved 03/08/10.



MS/P Moore/Gardner to note receipt of the request from the Glads and that the Planning Commission concurs with ESD staff member Robert Wright's shoreline vegetation recommendation.

Request to be heard received from Dennis L. Johnson to express concerns in regard to vehicle/equipment storage, hours/days of operation, employees, building codes, noise, emergency vehicle access, and septic system. Mr. Johnson presented photos and explained his unhappiness with the Home Business CUP approved for the Altos during the 05/09/11 meeting. The Altos appeared to respond to Mr. Johnson's unhappiness. No action taken.

Request to be heard received from Mark Moriarity to be allowed to place a roof over the deck approved by VP11-142-26-1.

MS/P Moore/Gardner No.

MS/P Moore/Fitch at 12:45 pm, to adjourn.

P. Fairbanks