



Cass County  
Planning Commission/Board of Adjustment

August 8, 2011

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting August 8, 2011 in the meeting room of the Cass County Land Department in Backus. The field inspections were conducted August 1, 2011 with Ballenthin, Bliss Fitch, Gardner, Gould, Moore and Sundberg present and August 2, 2011 with Ballenthin Bliss, Fitch, Gardner, Gould, Moore and Sundberg present.

Sundberg called the meeting to order at 9:15 a.m.

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

Staff Present: Berg, Fairbanks and Ringle.

Citizens Present: Julie Aldridge, Shirley Barg, William Barg, John Davidson, John Dowell, Lynnette Emery, Thomas Emery, Donna Engman, Brian Hanson, Pat Humphrey, Dennis King, Mona King, Harlan Kragt, Sandi Kreuger, David Monkman, John Newton, Mary Newton, Rod Osterloh, Kathy Pfaaf, Larry Pfaaf, Pete Rifakes, Lee Shade, David Schaumberg, Verdale Soukup, Emerson Stahl, Neoma Stahl, Adam Surma, Dan Surma, John Surma, Reno Wells, Gary White, Marilyn White, and Gene Williams.

MS/P Moore/Fitch to approve the minutes of the 07/11/11 PC/BOA meeting as presented.

MS/P Ballenthin/Gardner to approve the minutes of the 06/27/11 special PC/BOA meeting as presented.

Variance

Carey, Brian, Hiram Township on property described as Lot 1 "Elmhurst & Adjacent Vacated Portion of RDWY, Section 12-140-31, PID # 16-400-0010, 16-001-3311, and 16-001-3312 located at 5116 Aspen Trail NW. An application as revised to expand a non-conforming structure with a 1288 square feet addition located 42 feet from the lake and an attached garage located on the non-lakeside of the residence 56 feet from the lake. The existing residence is non-conforming because it is located 30 feet from the lake. Section 1115.3 B requires a variance to expand a non-conforming residence. Section 1126.1 A of the Land Use Ordinance requires structures to be located 75 feet from a classified as General Development (GD). The property contains .72 acre riparian to Ten Mile Lake (GD). This application was

tabled during the 05/09/11 and 07/11/11 meetings in order for the applicant to consider a revised site plan.

PC members were at the site 05/02/11, 07/05/11 and 08/02/11. 34 notices of the application were mailed for the 05/09/11, 06/13/11 and 08/08/11 meetings. 16 responses, all but one opposed to approval, were received. The application was discussed and reviewed with the applicant's representative Mr. Hanson.

MS/P Ballenthin/Gould to deny the application to expand the non-conforming residence located upon PID # 16-400-0010, 16-001-3311, and 16-001-3312 upon review of the criteria contained in Section 800 of the Land Use Ordinance (01/10/10) and in M.S. 394.27, Subdivision 7 with the following findings.

Findings:

1. The lot was created in 1955 and it is obvious that the existing residence was constructed prior to land use regulation.
2. The existing residence, which was not constructed by the applicant, as allowed by statute could be reconstructed at current dimension and volume.
3. The application has been revised to move and expand a non-conforming structure at a setback of 45 feet to 52 feet as shown on a site plan received by ESD 07/21/11.
4. The existing non-conforming structure is 20 feet x 26 feet. The applicant proposes to remove the lakeside porch reducing the structure dimensions to approximately 20 feet x 15 feet. The reduced structure will be moved from the current setback of 42 feet from the lake to the increased proposed setback of 46 feet and an addition would be constructed as shown in the site plan submitted 07/21/11.
5. Retaining approximately 300 square feet from the existing non-conforming structure, moving it and adding a 1,504 square feet addition is materially the same as construction an entirely new structure.
6. The lot has a depth of 180 feet, locating the proposed structure at the required setback of 75 feet is reasonable.
7. There is at least one suitable site for a mound septic system on the lot if the proposed structure is located at the required setback of 75 feet.
8. A variance to allow building the proposed structure on a lot with one suitable septic system location is reasonable because the SSTS Ordinance permits a holding tank if there are no other reasonable alternatives.
9. The proposed use at less than the required setback is not reasonable because the proposed use may be constructed at the required setback with a compliant septic system.
10. The plight of the applicant is not due to circumstances unique to the property because the proposed use may be located at the required setback; alternatively, the applicant as allowed by applicable law may reconstruct the existing structure at the current location, footprint and volume therefore the applicant has reasonable use of the property.
11. The proposed variance, if granted, would not alter the essential character of the neighborhood.

12. Economic conditions are not the sole reason for the variance.
13. Considering all factors, granting a variance as proposed does not serve the interests of justice.

Dowell, John, Inquadona Township on property described as Lot 7 "Holiday Acres", Section 7-141-27, PID # 18-358-0070 located at 6107 Macemon Road NE. An application submitted "after the fact" to be allowed to retain a concrete boat ramp. Section 1126.13 allows for boat ramps only on lakes without public access. The property contains .9 acre riparian to Long Lake (GD).

PC members were at the site 08/01/11. 35 notices of the application were mailed. Four responses all opposed to approval of the application were received. The application was reviewed and discussed with Mr. Dowell.

MS/P Ballenthin/Gardner to deny the application to be allowed to retain boat ramp located at 18-358-0070 upon review of the criteria contained in Section 800 of the Land Use Ordinance (01/10/10) and in M.S. 394.27, Subdivision 7 with the following findings and conditions.

Findings:

1. Long Lake has a designated DNR public access to launch and retrieve boats.
2. The applicant has established no reasonable basis to be allowed a personal boat ramp.
3. The existing concrete tracks could have remained in place as a legal non-conforming use.
4. The current configuration was completed without permit and there is no record that the applicant attempted to obtain boat ramp information from ESD.
5. The "after the fact" configuration is a significant increase in the amount of impervious surface located directly at the shoreline and when combined with the existing asphalt surface will significantly increase run-off to the lake.
6. The plight of the applicant is not due to circumstances unique to the property because there is public access on Long Lake.
7. The variance if granted will alter the essential character of the locality because private boat ramps are not allowed on Long Lake.
8. Considering all factors, granting of the variance as proposed does not serve the interests of justice.

Condition:

1. The ramp must be returned to the pre-expansion configuration by 10/01/11 along with restoration of the area disturbed along with consideration of the impervious area of the existing driveway area within the shore impact zone or the issue will be referred to the Office of the County Attorney for prosecution and court ordered removal.

Kragt, Harlan & Suzanne, Inquadona Township on property described as Lot 1 "Holiday Acres", Section 7-141-27, PID # 18-358-0010 located at 6063 Macemon Road NE. An application

submitted to expand a non-conforming residence with a 16 feet x 18 feet addition, a 16 feet x 40 feet addition and a 13 feet x 14 feet loft addition. The residence is non-conforming because it is located 70 feet from the lake. Section 1115.3 B requires a variance to expand a non-conforming residence. Section 1126.1 A of the Land Use Ordinance requires structures to be located 75 feet from a classified as General Development (GD). The property contains 1.1 acres riparian to Long Lake (GD).

PC members were at the site 08/01/11. 28 notices of the application were mailed. Three responses, two opposed to and one favoring the application were received. The size and location of the expansion was discussed by the members and Mr. Kragt.

MS/P Ballenthin/Moore to approve the application as submitted and reviewed for expansion of the residence located upon PID # 18-358-0010 upon review of criteria contained in Section 800 of the Land Use Ordinance (01/10/10) and M.S. 394.27, Subdivision 7 with the following findings and conditions.

#### Findings:

1. The lot was created in 1961 and the residence was constructed in 1982 at 75 feet from the lake.
2. The proposed expansion is to the side and non-lakeside of the residence and will not be obtrusively observable from the lake or affect run-off to the shoreline subject to compliance with conditions below 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 also to promote the health, safety, general welfare.
3. The proposed expansion construction will not be readily observable from the lake or affect run-off to the shoreline subject to conditions below therefore it can be concluded that a variance for the expansion does not contradict the purpose of the comprehensive plan which is to provide a basis for land use decisions and protect the county's natural resources.
4. Based upon the current size and configuration of the residence, the proposed expansion is not excessive or extreme in size or configuration therefore can be deemed reasonable.
5. The proposed expansion construction is of a reasonable size and located in a manner to as least obtrusive to the lake 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.
6. The proposed expansion construction is not excessive or extreme in size or configuration therefore can be deemed reasonable.
7. The proposed expansion construction will not affect area land use because there are similar structures along Macemon Road White Rock Lane.

8. There is no reason to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: If the following conditions are included, 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, 16 feet x 18 feet and not more than 23 feet to peak, location and elevations of the expansion shall not vary from that submitted with the application 07/21/11.
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 expansion, 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. Shoreline 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.
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.

Lauer, Catherine & Edward, Powers Township on property described as Pt of Gov Lot 3", Section 21-139-30, PID # 34-021-1405 located at 1020 W Horseshoe Drive NW. An application submitted to replace the existing residence with a 28 feet x 40 feet two story residence located 60 feet from the lake. Section 1126.1 A. of the Land Use Ordinance requires structures to be 100 feet from a lake classified Recreational Development (RD). The property contains 3.4 acres riparian to Horseshoe Lake (RD).

PC members were at the site 08/02/11. 37 notices of the application were mailed. No responses were received. The application was discussed and reviewed with the applicant's representative Verdale Soukup.

MS/P Moore/Ballenthin to approve the location of the residence for PID # 34-021-1405 upon review of the criteria contained in Section 800 of the Land Use Ordinance (01/10/10) and M.S. 394.27, Subdivision 7 with the following findings and conditions.

Findings:

1. The lot was created in 1970 and it is obvious that the existing residence was constructed about that time although no permit record can be located.
2. The existing residence which was not constructed by the applicant, as allowed by statute, could be reconstructed at current dimension and volume.
3. Utilization of the existing excavated foundation area will result in less disruption to the landscape as opposed to location at setback and the resulting new excavation.
4. Reuse of the existing site 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.
5. The proposed new construction is not excessive in size and located in a manner to reuse the existing site resulting in less excavation disruption which therefore 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.
6. The proposed new residence is not excessive, extreme or unreasonable and will be similar to other residences along Horseshoe Lake.
7. The proposed construction will not affect area land use because there are similar structures along Horseshoe Lake and because it will be mostly screened from the lake and neighbors.
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 dimensions and configuration of the expansion shall not exceed that submitted 07/19/11.
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 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 divert drain tile run-off to 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.
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.

Manee, Helen, Estate, Trelipe Township on property described as Gov Lot 1 & Unplatted Part of Gov Lot 2 & part of Gov Lot 3, Section 24-140-27, PID # 44-124-1100 located at 4723 Wilderness Drive NE. An application submitted to replace the existing residence with new construction of 2,892 square feet residence including deck and attached garage 78 feet from the lake. Section 1126.1 A. of the Land Use Ordinance requires structures to be 100 feet from a lake classified Recreational Development (RD). The property contains 39.19 acres riparian to Island Lake (RD).

PC members were at the site 08/01/11. 20 notices of the application were mailed. No responses were received. The application was discussed and reviewed with the estate's representative Ms. Bertrand and the potential buyer Mr. Carlson.

MS/P Ballenthin/Moore to approve the location as submitted for the residence for PID # 44-124-1100 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. The lot was created in 1901 and there is a 1973 septic system installation permit but no record of permit for the residence.
2. The existing residence which was not constructed by the applicant, as allowed by statute, could be reconstructed at current dimension and volume.
3. Utilization of the existing excavated foundation area will result in less disruption to the landscape as opposed to location at setback and the resulting new excavation.
4. Reuse of the existing site 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.
5. The proposed new construction is not excessive in size and located in a manner to reuse the existing site resulting in less excavation disruption which therefore 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.
6. The proposed new residence is not excessive, extreme or unreasonable and will not be visible to the lake or neighboring properties.
7. The proposed construction will not affect area land use because the property contains forty acres and because it is screened from the lake and neighbors.
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 structure dimensions and configuration shall not exceed that submitted with the application 07/21/11.
2. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal facility.
3. 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.
4. 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 20 feet landward of the ice ridge 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.

5. 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.

Mohs, Gary, Sylvan Township on property described as Pt of NE NE, MPL Lease Lot # 2, Section 20-133-29, PID # 41-120-1102 located at 13202 Yde Drive SW. An application submitted to construct a 20 feet x 20 feet awning/porch 75 feet from the river. The applicant also requests to be allowed to utilize a holding tank for waste water. Section 1126.1 A. of the Land Use Ordinance requires structures to be 100 feet from a river classified Tributary (TR). Section 3.13 of the Individual Sewage Treatment System Ordinance allows for installation of a holding tank only where there is no other reasonable alternative to treating and disposing of waste water. The property contains one acre riparian to the Gull River (TR).

PC members were at the site 08/02/11. 26 notices of the application were mailed. One response from Sylvan Township recommending approval with conditions was received.

MS/P Fitch/Moore to table consideration of the application to the 09/12/11 meeting in order for the applicant or a representative to be present.

Pfaff, Kathryn & Larry, Crooked Lake Township on property described as Pt of Lots 1 & 2, Blk 1, "Luschers Bay", Section 26-139-26, PID # 12-481-0102 and PID # 12-481-0104 located at 6416 Minnesota St NE. An application submitted to expand a non-conforming 22 feet 6 inches x 20 feet 7 inches resort cabin with a 22 feet x 24 feet addition and expand a non-conforming 18 feet 4 inches x 14 feet 8 inches resort cabin with a 12 feet x 16 feet addition. The resort cabins are non-conforming because they are less than 75 feet from the lake. Section 1126.1 A. of the Land Use Ordinance requires structures to be 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 .6 acre riparian to Lake Roosevelt (GD).

This application was tabled during the 07/11/11 meeting in order for the proposed setbacks to be verified and for the PC to visit the site during the August site visits. PC members were at the site 07/06/11 and 08/01/11. 74 notices of the application were mailed were mailed for each of the 07/11/11 and 08/08/11 meetings. Two responses one favoring approval and one opposed to approval were received in response to the 07/11/11 meeting. No written responses were received from the 08/08/11 meeting mailing. Several persons in attendance raised concerns in regard to the waste water treatment system. The application was discussed and reviewed with Kathy and Larry Pfaaf.

MS/P Moore/Fitch to table consideration of the application until the 09/12/11 meeting in order for the PC to make another site visit to look at the internal configuration of the structures.

Rifakes, Peter, Crooked Lake Township on property described as Lot 1 "Longwood Point", Section 5-139-26, PID # 12-377-0010 located at 2617 Longwood Point Road NE. An application submitted to expand a non-conforming residence with a 6 feet x 36 feet 13 feet x 8 feet x 8

deck which will be 42 feet from the lake. The residence is non-conforming because it is located 50 feet from the lake. Section 1115.3 B requires a variance to expand a non-conforming residence. Section 1126.1 A of the Land Use Ordinance requires structures to be located 75 feet from a classified as General Development (GD). The property contains 2.5 acres riparian to Lake Washburn (GD).

PC members were at the site 08/01/11. 42 notices of the application were mailed with no responses received. The application was discussed and reviewed with Mr. Rifakes.

MS/P Moore/Fitch to approve the deck as submitted for the residence located upon PID # 12-377-0010 upon review of Section 800 of the Land Use Ordinance (01/10/10) and M.S. 394.27, Subdivision 7 along with the following findings.

Findings:

1. The dimensions and location of the residence along with a deck as proposed by the application was approved 11/12/02 by VPO2-139-26-7.
2. The location of the deck 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.
3. The location of the deck does not 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 deck is not excessive or extreme in size.
6. The deck is not significant in scale with the site, the house, the lake or the area in general and will not affect area land use and because there are numerous similar decks along Lake Roosevelt.
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.

Conditional Use Permit

Donovan , James & Posch, Robert, May Township on property described as Part SE  $\frac{1}{4}$ , Section 23-134-31, PID # 24-123-4001 located along CSAH # 34 about 2.5 miles west of the junction with CSAH # 1. An application submitted to reclassify the parcel from Agricultural/Forestry (AF) to Rural Residential - 10 (RR-10). Section 705 of the Land Use Ordinance establishes conditional use permit review criteria. Section 901 of the Land Use Ordinance establishes the various land use districts. Section 1113.2 of the Land Use Ordinance establishes the minimum land use size requirements. The property contains 115.17 acres in the non-shoreland (+1,320 feet from protected waters) area.

PC members were at the site 08/02/11. 22 notices of the application were mailed with no written responses received. Several persons appeared to voice their displeasure with the applicant and the potential increased density that could occur. The application was discussed and reviewed with the applicants' representative Mr. Osterloh.

MS/P Ballenthin/Gardner to table consideration of the application until the applicant or a representative to appear or until the 09/12/11 meeting if no one appears.

MS/P Ballenthin/Gould as requested by the applicants' representative Mr. Osterloh, to open consideration of the application.

MS/P Ballenthin/Fitch to approve the reclassification of PID # 24-123-4001 less the NE SW to Rural Residential - 10 (RR-10) upon review of Sections 705, 707 and 901 of the Land Use Ordinance (01/10/10) with the following findings.

Findings:

1. As described in Section 903.5 of the Land Use Ordinance, the application complies with the purpose of Rural Residential 10 (RR-10) which is to "is to promote low density rural development on those portions of the County outside the shoreland zone and beyond area of anticipated municipal growth where less development is desired and most suitable".
2. The property consists of pasture and wood lots.
3. No wetland or critical habitat will be negatively impacted by reclassification.
4. No scenic or historic features are contained or near the area to be reclassified.
5. Reclassification will not allow for uses that could adversely affect public health, safety or welfare.
6. The property abuts CSAH # 34 and County # 104 and requires no additional public

infrastructure.

7. Reclassification of property is not subject to mandatory EAW standards.
8. No comments were received from May Township, agencies or persons notified.
9. The County Board will adopt the RR-10 designation for the May Township land use map.
10. Approval does not apply to the NW SE portion of the property.

Otter Tail Power Company, Pike Bay Township on property described as Part of Gov Lots 2 & 3, Section 17-145-31, PID # 29-017-1205 located at 6667 160<sup>th</sup> St NW. An application submitted to construct a 100 foot telecommunication tower at a sub-station. Section 705 of the Land Use Ordinance establishes conditional use permit review criteria. Section 1127 of the Land Use Ordinance establishes Telecommunication Tower standards. The property contains 14.31 acres in the non-shoreland (1,320 feet from protected waters) area.

PC members were at the site 08/01/11. More than 50 notices of the application were mailed with no responses received. The application was discussed and reviewed with Otter Tail Power representative Mr. Preston.

MS/P Moore/Gardner to approve the CUP for the communication tower located upon for PID # 29-017-1205 upon review of Sections 705, 706 and 901 of the Land Use Ordinance (01/10/10) with the following findings and conditions.

Findings:

1. The tower will be located within an expanded Otter Tail Power sub-station that is screened by mature trees on all sides.
2. The tower height is relatively low will be partially screened by the trees and will not be obtrusive to the area or US Highway #2.
3. The sub-station/tower is located in a developed commercial/service area adjacent to the City of Cass Lake along a main northern interstate highway route.
4. No wetland or critical habitat is affected.
5. No scenic or historic features are affected.
6. The sub-station has no record of harm to public health, safety or welfare.
7. The sub-station has not altered area land use.
8. Placement of the tower 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.
9. The tower will most likely increase the level of protection public health, safety and welfare.

Conditions/Approve:

1. All applicable permits and/or licenses must be obtained.
2. The existing tree buffer along the boundary of the property shall be maintained.
3. The tower shall not be lighted.

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.

Stadick, Brian & Deneal, Blind Lake Township on property owned Wells Fargo Bank, N.A., described as NE  $\frac{1}{4}$ , NW  $\frac{1}{4}$ , Section 27-139-28, PID # 06-027-2100 located at 1415 8<sup>th</sup> St NE. An application submitted to reclassify the property from Agricultural/Forestry (AF) to Rural Residential - 20 (RR-20). Section 705 of the Land Use Ordinance establishes conditional use permit review criteria. Section 901 of the Land Use Ordinance establishes the various land use districts. Section 1113.2 of the Land Use Ordinance establishes the minimum land use size requirements. The property contains 40.12 acres in the non-shoreland (+1,320 feet from protected waters) area.

PC members were at the site 08/02/11. 32 notices of the application were mailed with no responses received. The application was discussed and reviewed with the applicant's representative.

MS/P Moore/Gardner to approve the reclassification to Rural Residential - 20 (RR-20) for PID # 06-027-2100 upon review of Sections 705, 706 and 1000 of the Land Use Ordinance (01/10/10) with the following findings.

Findings:

1. As described in Section 903.5 of the Land Use Ordinance, the application complies with the purpose of Rural Residential 20 (RR-20) which is to "is to promote low density rural development on those portions of the County outside the shoreland zone and beyond area of anticipated municipal growth where less development is desired and most suitable".
2. The property is mostly wooded and very remote to neighboring residences.
3. No wetland or critical habitat will be negatively impacted by reclassification.
4. No scenic or historic features are contained or near the area to be reclassified.
5. Reclassification will not allow for uses that could adversely affect public health, safety or welfare.
6. The property abuts County #160 and requires no additional public infrastructure.
7. Reclassification of property is not subject to EAW standards.
8. No comments were received from Blind Lake Township, agencies or persons notified.

Tri-City Paving Inc, Turtle Lake Township on property described as NW NE, Section 15-141-30, PID # 45-015-1200 and NE NE Less E  $\frac{1}{4}$  Thrf, Section 15-141-30, PID # 45-015-1100 located at 3317 64<sup>th</sup> St NW. An application submitted to renew a conditional use application approved 9/84 for PID # 45-015-1200 to establish and operation an extractive use/gravel pit that includes excavation, crushing, occasional asphalt manufacturing with all pit related materials transported by truck to various job locations. The application also calls for the eventual expansion of extractive operation to the adjoining parcel PID # 45-015-1100. The combined

parcels contain 69.22 acres. PID # 45-0125-1200 is classified Commercial (C) and PID # 45-015-1100 is classified Shoreland Residential (SR). Section 705 of the Land Use Ordinance establishes conditional use permit (CUP) review criteria and process. Section 1107 of the Land Use Ordinance establishes the extractive use requirements.

PC members were at the site 08/02/10. 36 notices of the application were mailed for the 08/09/10 and 08/08/11 meetings. Seven responses, including a petition, all opposed save one were received. The application was discussed and reviewed with Tri-City representatives as well as numerous persons from the area around the pit. Discussion included among others asphalt production, truck traffic route options, wetlands, pit entrance location and pit reclamation.

MS/P Moore/Gardner to table consideration of the application until the 09/12/11 meeting.

### Other Business

Loch Have Environmental Assessment Worksheet (EAW) on property described as Part of NE, Section 34-138-32, PID # 25-034-1001, 1100, 1101, 1102, 1103, 1403, 1404, 1405, and 1204 located along TH # 64 in McKinley Township. Comments/responses to the EAW prepared for the proposed Loch Haven development will be considered for the purpose of making an Environmental Impact Statement (EIS) declaration.

MS/P Moore/Gardner to adopt the following finding and negative declaration for the EAW prepared for the proposed development of "Loch Haven".

### Findings:

1. The EAW combined with the Response to Comments is complete and accurately assesses potential environmental impacts for the proposed development known as Loch Haven. No findings are binding on Cass County in any proceeding for any permit or in any other proceeding related to the subject matter of this EAW.

### Cumulative Potential Effects of related or Anticipated Future Projects.

2. Loch Haven has been planned for full development in phases. The project proposer owns no additional land near the site and no future stages are planned or anticipated for this project.

### Extent to Which the Environmental Effects are Subject to Mitigation.

3. Environmental effects on groundwater, traffic, and water quality are subject to additional approvals and/or mitigation through requirements of Cass County ordinances and permitting procedures along with MPCA feedlot and storm water regulations. The following permits and approvals are required for the project addressed under the EAW and these permitting and approval processes will provide additional opportunity to require mitigation.

## Permits and Approvals Required

| Unit of Government | Type of Application | Status                        |
|--------------------|---------------------|-------------------------------|
| MPCA               | Feedlot/Manure Mgt  | To be applied for if required |
| MPCA               | NPDES               | To be obtained                |
| Cass County        | CUP/Plat            | To be applied for             |
|                    |                     |                               |

Note: All required permits and approvals will be obtained. Any necessary permits or approvals that are not listed in the table above were unintentionally omitted.

The potential environmental effects associated with this project are not significant and will be mitigated in compliance with applicable rules, regulations, and permit requirements. Cass County therefore finds that the potential environmental effects of the project are "subject to mitigation by ongoing public regulatory authority" (Minnesota Rules 4410.1700 Subp. 7.D.).

Extent to Which Environmental Effects Can be Anticipated and Controlled as a Result of Other Available Environmental Studies Undertaken by Public Agencies or the project Proposer, Including other Environmental Impact Statements

4. The County must consider is the "extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the project proposer, or of an EIS previously prepared on similar projects" (Minnesota Rules 4410.1700 Subp. 7 (D)).

The proposed project is reasonably similar to other residential development projects located in Cass County. Other projects of similar scope have mitigated potential environmental impacts. The EAW contains or references that provide information or guidance regarding environmental effects that can be anticipated and controlled. No EIS that addresses a similarly sized project on an NE lake is available. In light of the results of environmental review and permitting process, Cass County finds that the environmental effects of the project can be adequately anticipated and controlled. Based on the EAW, comments received from agencies, the responses to comments Cass County finds that the Loch Haven Development doe have the potential for significant environmental effects and does not require the preparation of an EIS.

Based on the EAW, the Response to Comments, and the Findings of Fact, Cass County as the RGU for this environmental review, concludes the following:

The EAW was prepared, published, and distributed in compliance with Minnesota Statutes, Chapter 116D, to implement the environmental review procedures established by the Minnesota Environmental Policy Act and Minnesota Rules Parts 4410.1000 to 4410.1700 (1997).



The EAW combined with the supplemental information contained in the Response to Comments and Findings of Fact, addressed and responded to all of the issues raised and comments received for which existing information could have been reasonably obtained, and further investigation is therefore not required.

This Decision is limited in the application only to the EAW and the adoption of a "Negative Declaration" and this Decision is not binding on Cass County in any proceeding for any permit or in any other proceeding related to the subject matter of this Decision.

Based on the criteria established in Minnesota Rules Part 4410.1700, the project does not have the potential for significant environmental effects.

An EIS is not required for Loch Have.

The Planning Commission of Cass County adopts a "Negative Declaration".

A Resolution Approving the Loch Haven residential Development Environmental Assessment Worksheet (EAW) and finding no need for an environmental impact statement (EIS)

WHEREAS Minnesota Rules Part 4410.4300 Subp 19a & 4410.4300 Subp 36, requires the preparation of an EAW for residential development of units, acreage and within the shoreland area of a Natural Environment (NE) lake for Loch Haven.

WHEREAS Commencing May 30, 2011, copies of the EAW were distributed to all persons and agencies on the official Environmental Quality Board (EQB) mailing list and other interested parties; and

WHEREAS the EAW was publicly noticed in the May 30, 2011 *EQB Monitor*, commencing the 30-day public comment period; and

WHEREAS Public notice was submitted May 25, 2011 for publication in the *Walker Pilot Herald* newspaper to announce the completion of the EAW, its availability to interested parties, and the process for submitting comments on the EAW, and

WHEREAS the 30-day comment period concluded June 29, 2011 at 4:30 p.m., and

WHEREAS Cass County accepted and responded to all written comments received:

NOW THEREFORE BE IT RESOLVED THAT:

The EAW was prepared, published, and distributed in compliance with the procedures of the Minnesota Environmental Policy Act and Minnesota Rules, Parts 4410.1000 to 4410.1700 (1997),

The EAW, combined with the supplemental information contained in the Response to Comments, satisfactorily addressed all the issues raised and comments received for which existing information could have been reasonably obtained, and further investigation is therefore not required,

Based on the criteria established in Minnesota Rules Part 4410.1700, the project does not have the potential for significant environmental effects,

Cass County makes a "Negative Declaration" on the need for an EIS,

The Cass County Planning Commission adopts a "Negative Declaration",

An EIS is not required, and

Cass County shall maintain a Record of Decision, including the Response to Comments on the EAW, and will notify in writing, within five days, all persons on the EAW distribution list, all persons who commented in writing during the 30-day comment period, and any other person upon written request. Cass County will also send notice of this decision to the project proposer and the EQB.

Request received from Robert Siebenaler to refund application fee for variance denied 07/11/11.

MS/P Ballenthin/Moore the Planning Commission supports the ESD decision to deny the request to refund the variance application fee.

MS/P Moore/Gardner at 5:25 pm, to adjourn.

P. Fairbanks