



Cass County
Planning Commission/Board of Adjustment

November 14, 2011

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting November 14, 2011 in the meeting room of the Cass County Land Department in Backus. The field inspection was conducted November 7, 2011 with Ballenthin, Fitch, Gardner, Moore and Sundberg present.

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

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

Staff Present: Berg, Fairbanks and Ringle.

Citizens Present: Pat Adams, Craig Anderson, Jeff Balmer, Paul Bork, Butch Brown, Kathy Brown, Al Chacey, John Davidson, Joe Edwards, Lynn Van Allen Flygare, Terry Freeman, Alan Gunsbury, Jane Gunsbury, Jon Hanson, Tom Hanson, Dan Helbling, Cindy Hidde, LeRoy Invie, Pat Invie, Bill Langley, Court Lechert, Travis Miller, Paul Radomski, Kari Rihm, Sarah Sellnow, Dave Sohn, Laura Sutton, Mike Wallin, Lee Wangstad, Norm Wieland and Debbie Zaffke.

MS/P Ballenthin/Gardner to approve the minutes of the 10/10/11 PC/BOA meeting as presented.

Variance

Alwin, Baird & Lori, Sylvan Township on property described as Tract A, Part of Lot 54 "Carlyon's Sylvan Park", Section 1-133-30, PID # 41-456-0540 located at 12387 Lower Sylvan Road. An application submitted "after the fact" to expand a residence with a 10 feet x 16 feet addition, an 18 feet x 24 feet addition, a 6 feet x 16 feet porch, a 14 feet x 20 feet deck addition and a 2 feet x 12 feet deck addition. The property is non-conforming because it is less than 30 feet from the top of a bluff. Section 1126.1 B. of the Land Use Ordinance requires structures to be located 30 feet from the top or toe of a bluff. A bluff is a topographic feature located either part or fully within the shoreland area and having the following characteristics: the slope rises at least 25 feet vertically above the toe of the bluff, the grade of the slope from toe of the bluff to a point 25 feet or more above the toe of the bluff averages 30 % or greater and the slope drains toward public waters. Section 1115. B. of the Land Use Ordinance requires a variance for any expansion of a non-conforming structure. The property contains .79 acres riparian to Sylvan Lake (GD).

PC members were at the site 11/07/11. 50 notices of the application were mailed. Three responses including Sylvan Township offering no objection to approval of the application were received. The application was discussed and reviewed with the applicants' representative Mr. Hanson.

MS/P Moore/Fitch to approve the application to allow the expansion as constructed upon the residence located at PID # 41-456-0540 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. The construction of residence was permitted in 1998 with no indication that bluff setback was considered.
2. The "after the fact" expansion was constructed as incorrectly approved 07/11.
3. There is no indication or evidence that the expansion construction has had any adverse affect on ground or surface water.
4. There is no indication or evidence that the residence along with the expansion has adversely affected area land use because it is mostly unobservable from neighbors and the lake and most residence in the immediate area are of similar size and scale.
5. The existing situation has had no detrimental bearing to the need or demand for governmental services because the property already has direct access to a public road and is not nor will be connected to municipal or community waste water treatment system.
6. Although the bluff setback was not considered 07/11, there is no evidence that the expansion has adversely affected the bluff. Removal of the expansion will serve little purpose other retribution, to bring the property into compliance with setback criteria would seem excessive and in light of all the findings, allowing the variance will serve the interests of justice.
7. The expansion is a reasonable use of residential property and as located, 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.
8. The size of the expansion is not excessive located to relatively unobtrusive to the lake and the neighborhood and 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.
9. 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. The plan shall include restoration of the disturbed area lakeside of the home with seed or pavers.
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. No storm water run-off to the lake or to adjoining properties is permitted. The residence, if necessary, shall be equipped with gutters to redirect storm water and if needed water retention structures such as rain gardens shall be installed to retain structure run-off and prevent run-off to the lake, the access road, and adjoining properties.
2. The area disturbed during construction must be re-vegetated.
3. Applicants consent to inspection of the property from time to time by ESD to verify compliance with all conditions.
4. Approval expires 11/13/13.

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

Edwards, Joey, Inquadona Township on property described as Part of Gov Lot 5, Section 32-141-27, PID # 18-032-3304 located at 2872 County 7 NE. An application submitted to construct a 27 feet x 28 feet attached garage located 43 feet from the right-of-way of CSAH # 7. Section 1126.1 B. of the Land Use Ordinance requires structures to be located at least 50 feet from the right-of-way of a county road. The non-riparian property contains 1.48 acres within the shoreland area of Lake Inquadona (GD).

PC members were at the site 11/07/11. 14 notices of the application were mailed. No responses were received. The application was reviewed and discussed with Mr. Edwards.

MS/P Gardner/Moore to approve the application as submitted to expand the residence located at PID # 18-032-3304 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. The parcel is non-riparian.
2. The garage 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.
3. The size of the attached garage is not excessive and located to be not obtrusive to the neighborhood and 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.
4. The attached garage seems not excessive, extreme and not substantially different from many other residences in the vicinity and therefore there is no reason to conclude that area land use will be negatively affected or altered.
5. The Cass County Highway Department did not object to the application.
6. 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 of the garage shall not exceed 27 feet x 28 feet and not exceed 24 feet from ground to peak.

2. The garage setback shall not be closer than 47 feet to the right-of-way of CSAH # 7.
3. Any debris resulting from construction not reused or recycled must be disposed of in a permitted 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 to adjoining properties is permitted. The approved expansion and structure if determined necessary by ESD 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.
6. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
7. Approval expires 11/14/13.

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.

Flygare, Lynn Hayes Van Allen, Woodrow Township on property described as Lot 7, Block 1 & Undivided 1/26 Outlot A, "Shores of Big Deep", Section 29-140-29, PID # 51-500-0114 located at 2915 Flicker Trail NW. An application submitted to expand a residence with a 26 feet x 28 feet addition. The residence is non-conforming because it is located less than 30 feet from the top of a bluff. A bluff is a topographic feature located either part or fully within the shoreland area and having the following characteristics; the slope rises at least 25 feet vertically above the toe of the bluff, the grade of the slope from toe of the bluff to a point 25 feet or more above the toe of the bluff averages 30 % or greater and the slope drains toward public waters. Section 1126.1 B. of the Land Use Ordinance requires structures to be 30 feet from the top or toe of a bluff. Section 1115. B. of the Land Use Ordinance requires a variance for any expansion of a non-conforming structure. The property contains 1.36 acres riparian to Big Deep Lake (RD).

PC members were at the site 11/07/11. 30 notices of the application were mailed. Six responses including Woodrow Township all offering no objection to approval of the application were received. The application was reviewed and discussed with Ms. Van Allen Flygare.

MS/P Ballenthin/Moore to approve the application as submitted for expansion of the residence located at PID # 51-500-0114 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. The property was platted in 1988 when the lake setback requirement for Big Deep Lake was 85 feet.

2. The residence was constructed in 1988 with permit 90 feet from the lake prior to the administration of bluff setback requirements.
3. The existing porch was constructed with permit in 1998 with no reference to bluff setback.
4. The expansion will be offset landward from the current bluff/lake setback and will not adversely impact the bluff.
5. The expansion is not an unreasonable 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.
6. The expansion is not excessive based upon the parcel size and the neighborhood and 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.
7. The expansion seems not excessive or extreme when compared with other residence along the east side of Big Deep 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 dimensions of the expansion shall not exceed that submitted 10/13/11.
2. The existing vegetation of the bluff to the lake must be maintained and replaced as needed.
3. Any debris resulting from construction not reused or recycled must be disposed of in a permitted 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 if determined necessary by ESD 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.
6. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
7. Approval expires 11/14/13.

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.

Gooderum, Steve, Kego Township on property described as E125 Feet of Gov Lot 4 and That Part of Gov Lot 1, Section 27-141-28, PID # 19-027-1301 located at 5482 Suzanne Lane NE. An application submitted to a construct 34 feet x 36 feet garage 37 feet from the lake. Section 1126.1 A. of the Land Use Ordinance requires structures to be located 75 feet from a General Development (GD) lake. Property contains 2.12 acres riparian to Long Lake (GD).

PC members were at the site 11/07/11. 38 notices of the application were mailed. Two responses both objection to approval of the application were received. The application was reviewed and discussed with Mr. Gooderum.

MS/P Ballenthin/Fitch to approve the application as submitted for the location of a detached garage to be located at PID # 19-027-1301 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. The lot was created in 1952 prior to the buildable area requirements.
2. It appears that prior to 1952 the lot area probably consisted entirely of lake/wetland.
3. The wetland area to the south and west of the residence is considered lake bed which severely limits accessory structure placement options.
4. The proposed garage 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 size of the garage is not excessive and located in the only available area and will be unobtrusive to the lake and the neighborhood and 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 garage is not excessive, extreme and not substantially different from many other Long Lake residences and garages and therefore there is no reason to conclude that area land use will be negatively affected or altered.

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

8. SA11-141-28-1 granted the applicant a 14 feet wide access, 4 feet wide walkway and a sand blanket subject to a condition of installing a minimum 12 inch berm landward of the OHWM all according to a plan attached to the application. Applicant constructed the walkway to the shoreline contrary to the plan approved. As constructed, the walkway provides a direct path for run-off to the lake.

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 of the garage expansion shall not 34 feet x 36 feet with height to peak no more than 24 feet.

2. The garage shall not be less than 37 feet from the OHWM.

3. Any debris resulting from construction not reused or recycled must be disposed of in a permitted 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 to adjoining properties is permitted. The approved expansion and structure if determined necessary by ESD 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.

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. Applicant shall remove that portion of the walkway constructed in violation of the plan from the boulders to the lake and shall restore the shore vegetation or replace with a pervious material. No permit for the garage shall be issued until this condition is fulfilled.
8. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
9. Approval expires 11/14/13.

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.

Goodwin, Lee/Mary Deck Trust, Wabedo Township on property described as E 100 Feet of W 300 Feet of Gov Lot & E 100 Feet of W 300 Feet of NW SW lying N of Hwy 84, Section 20-140-28, PID # 46-020-2303 located at 3428 Hunters Bay Road NE. An application submitted to expand an existing non-conforming residence with a 14 feet x 28 feet addition to be located 2 feet from a property boundary line. The residence is non-conforming because it is located 35 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 of the Land Use Ordinance requires a variance for any expansion of a non-conforming structure. The parcel contains 2.2 acres riparian to Woman Lake (GD). Consideration of this application was tabled 10/10/11 in order for the applicants and their contractor to consider other placement options. The application was amended during the 11/14/11 hearing to request 12 feet x 28 feet addition to be located 4.3 feet from a property boundary line.

PC members were at the site 10/03/11. 29 notices of the application were mailed for the 10/10/11 and 11/14/11 meetings. One response from Wabedo Township recommending denial of the application was received. In addition correspondence from Mr. Goodwin stating that placement options had been considered and that the location for the expansion remains unchanged. The application was discussed and reviewed with the applicant's representative Mr. Wallin.

MS/P Ballenthin/Gardner to deny the application as submitted for the expansion of the residence at PID # 46-020-2303 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 1968.
2. The residence was constructed in 1972 with permit at 9 feet from the property line and 65 feet from the lake.
3. The setback as measured 10/03/11 is 46 feet from the deck and 38 feet from the residence.
4. The location of the compliant SSTS and the legal non-conforming boathouse restricts other expansion options however the applicants have reasonable use of the property in its present configuration and the applicant has other options for expansion if the applicant elects to reconfigure the expansion or alter use of the boathouse.
5. The proposed expansion with a 2 feet or 4.3 feet property boundary line setback is not a reasonable use of residential property because located as proposed it is not reasonably possible to construct and in the future maintain the expansion without infringement on the neighboring property.
6. The expansion as proposed will 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 because the 10 feet setback from neighboring property required by the ordinance is a reasonable requirement.
7. The expansion as proposed contradicts the purpose of the Comprehensive Plan which is to provide 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 because construction and future maintenance of the expansion with a 2 feet or 4.3 feet setback from the neighboring property is reasonably likely to cause conflicts between property owners.
8. The expansion will negatively affect area land use.

Johnson, Bryan & Linda, Hiram Township on property described as Part of Gov Lot 1, Section 16-140-31, PID # 16-016-1107 located at 3861 61ST Ave NW. An application submitted to expand an existing non-conforming residence with a 12 feet x 32 two story addition, a 5 feet x 12 feet lakeside deck and a 9 feet x 12 feet non-lakeside porch. The residence is non-conforming because it is located 45 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 of the Land Use Ordinance requires a variance for any expansion of a non-conforming structure. The parcel contains 2.9 acres riparian to Ten Mile Lake (GD).

PC members were at the site 11/07/11. 32 notices of the application were mailed. Two responses both offering no objection to the application were received. The application was discussed and reviewed with the applicants' representative Mr. Blamer.

MS/P Gardner/Moore to approve the application as submitted for expansion of the residence located at 16-016-1107 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. The lot was platted in 1962 and as best can be determined the residence was constructed prior to 1983 less than 75 feet from the lake.
2. The porch, which enclosed a patio, was allowed at 40 feet by VP91-140-31-4.
3. The expansion will fill the existing patio between the primary residence and the guest house and be no closer to the lake than those two structures.
4. The expansion seems to be 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 expansion seems not excessive not overly obtrusive to the lake and the neighborhood and 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 expansion seems not excessive, extreme and not substantially different from other Ten Mile Lake residences and therefore there is no reason to conclude that area land use will be negatively affected or altered.
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 dimensions of the expansion shall not exceed that submitted 10/20/11.
2. The expansion setback shall not be closer to the lake than the setback of the existing residence and shall not exceed 25 feet from ground to peak.
3. Any debris resulting from demolition or construction not reused or recycled must be disposed of in a permitted 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 to adjoining properties is permitted. The approved expansion and structure if determined necessary by ESD 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.
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. Approval does not allow or imply that the structure to be expanded can be removed by demolition or any other method nor shall the structure to be expanded be reduced to "one wall".
8. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
9. Approval expires 11/14/13.

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.

Langley, Wendy, Unorganized on property described as Lot 1, Block 3 & 1/9 Interest in Outlot A, "Winnie Dam Homesites" Section 26-146-27, PID # 70-310-0310 located at 4235 Winnie Dam Lane NE. An application submitted to expand a non-conforming residence with a 16 feet x 28 feet addition. The residence is non-conforming because it is located 18 feet from the right-of-way of Winnie Dam Lane. Section 1126.1 B. of the Land Use Ordinance requires structures to be located 20 feet from a township/platted road. Section 1115.3 of the Land Use Ordinance requires a variance for any expansion of a non-conforming structure. The property contains .7 acres non-riparian within the shoreland area of Lake Winnibigoshish (GD).

PC members were at the site 11/07/11. 14 notices of the application were mailed. No responses were received. The application was discussed and reviewed with Mr. Langley.

MS/P Ballenthin/Gardner to approve the location of the addition for the residence at PID # 70-310-0310 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 area was occupied by DNR lease lots prior to platting in 1990.
2. It is likely that the residence was constructed prior to land use regulations administered by the county.
3. The lot is non-riparian and the residence is mostly unobservable for the lake.
4. The platted road serves the residents of the plat and not utilized by through traffic.
5. The is a reasonable use of the 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.
6. The size and configuration of the expansion is not excessive not visible from the lake and located to be as least obtrusive to the neighborhood and 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.
7. The expansion seems not excessive, extreme and therefore there is no reason to conclude that area land use will be negatively affected or altered.
8. There is no evidence to conclude that the application is based solely on financial factors.

Conditions:

1. The dimensions of the expansion shall not exceed that submitted 11/14/11.
2. The height to peak of the expansion shall not exceed that of the existing residence.
3. Any debris resulting from demolition or construction not reused or recycled must be disposed of in a permitted 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 to adjoining properties is permitted. The approved expansion and structure if determined necessary by ESD 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 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. Approval does not allow or imply that the structure to be expanded can be removed by demolition or any other method nor shall the structure to be expanded be reduced to "one wall".
8. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.

9. Approval expires 11/14/13.

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.

Olson, Roger, Smokey Hollow on property described as Lot 11, Block 1, "Little Thunder Lake Homesites" Section 7-140-25, PID # 40-364-0155 located at 7576 S Little Thunder Drive NE. An application submitted to construct a 28 feet x 24 feet garage located 5 feet from the right of way of S Little Thunder Drive NE. Section 1126.1 B. of the Land Use Ordinance requires structures to be located 20 feet from a township/platted road. The property contains .69 acres riparian to Little Thunder Lake (RD).

PC members were at the site 11/07/11. 28 notices of the application were mailed. No responses were received. The application was discussed and reviewed with Mr. Olson.

MS/P Ballenthin/Gardner to approve the application as submitted for the location and configuration of the to be located at PID # 40-364-0155 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 and conditions.

Findings:

1. The right-of-way of South Little Thunder Lake Drive was established in 1990 as part of the plat "Little Thunder Lake Homesites" and is not a thorough road.
2. The garage site is well screened and much higher in elevation from the lake which will make the garage mostly unobservable from the lake nor will it necessarily affect run-off to the shoreline 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 garage is reasonable in size and located to be as least obtrusive as possible 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.
5. The garage will not affect area land use because there are similar sized and configured garages in the immediate area and because the road serves only local traffic.
6. 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 garage shall exceed 24 feet x 28 feet x 24 feet from ground to peak and not be less than 5 feet from the platted right-of-way of S Little Thunder lake Drive NE.
2. Any debris resulting from 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.
7. Approval expires 11/14/13.

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

DJRO LLC, Shingobee Township on property described as Outlot G, "Lodges of Bluewater", Section 2-141-31, PID # 38-343-0007 located at 7051 Wintergreen Trail NW. An application submitted to establish a recreational vehicle park. Section 705 of the Land Use Ordinance establishes conditional use permit (CUP) review criteria and process. Section 1118 of the Land Use Ordinance establishes the recreational vehicle park criteria. The property contains 5 acres riparian to Leech Lake (GD).

PC members were at the site 11/07/11. More than 100 notices of the application were mailed. One response objecting to approval of the application was received. In addition, several in attendance questions density and RV unit lot size. The application was discussed and reviewed with Mr. Helbling and Mr. Freeman.

MS/P Moore/Fitch to approve the application as submitted for the location and configuration for recreational vehicle unit sites to be located at PID # 38 - 343- 0007 upon review of Sections 705 and 1118 of the Land Use Ordinance (01/10/10) with the following findings and conditions.

Findings:

1. There is no evidence that the recreational vehicle park if operated to best management practices standards will necessarily cause adverse effects to adjoining property.
2. The recreational vehicle park will be occupied during the summer months which result in no impact to local schools
3. The recreational vehicle park will not affect County parks because there are none.
4. The recreational vehicle park will utilize existing township and state roadways that will not require expansion or reconfiguration therefore additional public infrastructure will not be required.
5. No wetland or critical habitat will be disturbed by the recreational vehicle park.
6. No scenic or historic features will be affected by the recreational vehicle park.
7. No particular threat to public health, safety and welfare can be expected from a recreational vehicle park.
6. Waste water treatment complies with applicable county and state standards and no public infrastructure will be required.
7. The project does not reach the mandatory EAW threshold.
8. The recreational vehicle park configuration complies with allowable density and is not greater than the maximum number of allowable sites according to the requirements of Section 1118 of the Land Use Ordinance.
9. There is no evidence or reason to expect that the recreational vehicle park will adversely affect adjoining property.

10. The recreational vehicle park is located in the second tier and if operated according to best management practices there is no evidence that such a land use will inherently be detrimental to Leech Lake water quality.

Conditions:

1. The recreational vehicle park shall comply with all applicable DOH standards and requirements.
2. The recreational vehicle park shall comply with the site plan submitted with the application.
3. The applicant must provide verification to ESD from the appropriate state agency that the lot sizes proposed comply with all applicable state statutes and rules.

Patock, David, Pine Lake Township on property described as N 264' of S 924' of Gov Lot 9, Section: 28-141-29, PID # 30-028-4302 located at 1328 Woodtick Trail. An application submitted for the relocation of a cabin and the movement of more than 50 cubic yards of earthen material in the shore impact zone and 200 cubic yards in the . Section 1106. 2 B. requires a conditional use permit for the movement of more than 50 cubic yards of material in the shore impact zone and more than 200 cubic yards behind the structure setback. The property contains 2.56 acres riparian to Moccasin Lake (RD).

ESD staff on behalf of PC members was at the site 11/08/11. 10 notices of the application were mailed. No responses were received. The application was discussed and reviewed with Mr. Patock.

MS/P Fitch/Ballenthin to approve the application for the movement of up to 50 cubic yards of earthen material within shore impact zone I and more than 200 cubic yards of earthen material beyond the structure setback upon review of Sections 705 and 1106.2 of the Land Use Ordinance (01/10/10) with the following findings and conditions.

Findings:

1. With appropriate erosion control the project should not adverse effect the lake.
2. The project has no bearing to public infrastructure.
3. No wetland or critical habitat will be disturbed.
4. No scenic or historic features will be affected.
5. No threat to public health, safety and welfare can be expected from the project.
6. There is no evidence or reason to expect that the project will adversely affect adjoining property.

Conditions:

1. An excavation and erosion control plan must be submitted for review and approval by ESD prior to the commencement of construction.
2. No further vegetative removal within the shore impact zone shall not be conducted unless as allowed by a Shoreland Alteration Permit.

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.

Quarterdeck Properties LLC, Fairview Township on property described as Lots 11 - 17, "Birch Bay on Big Gull", Section 5-134-29, PID # 14-363-0110 & Part of Govt Lots 4 -6 & part of NW SW, Section 5-134-29, PID # 14-005-3102 Located at 9820 Birch Bay Drive SW. An application submitted to upgrade and reconfigure to include removal existing non-conforming resort unit with new at the required setback, shoreline vegetation restoration and storm water run-off management. Section 705 of the Land Use Ordinance establishes conditional use permit (CUP) review criteria and process. Section 1104 of the Land Use Ordinance establishes resort criteria. The property contains 27.03 acres riparian to Gull Lake (GD).

PC members were at the site 11/07/11. More than 100 notices of the application were mailed. Four responses, including Fairview Township, none offering objection to approval were received. The application was discussed and reviewed with Mr. Stephens and Ms. Hidde including several questions from those in attendance in regard to deeded access and resort guests and neighboring private property.

MS/P Ballenthin/Fitch to table consideration of the application until the 12/10/11 meeting in order to review the preliminary plat along with the conditional use permit application.

Resource Protect District Request

Ada Lake Association, Ponto Lake Township on property owned by the State of Minnesota described as Unplatted Part of Gov Lots 3 - 5 & SE, Section 22/139-29, PID # 32-022-0001 & NE, NE SW & SE, Section 27-139-29, PID # 32-027-0001. A request submitted to designate the property as Resource protection District. Section 1202.2 of the Land Use Ordinance establishes Resource Protection District designation criteria and requirements. The property contains 657.7 acres riparian to Lake Ada (RD) and Hand Lake (RD).

PC members were at the site 11/07/11. More than 100 notices of the application were mailed. Four responses, including Fairview Township, none offering objection to approval were received. The application was discussed and reviewed with Mr. Stephens and Ms. Hidde including several questions from those in attendance in regard to deeded access and resort guests and neighboring private property.

More than 100 notices of the application were mailed. No responses were received. The application was discussed and reviewed with Ada Lake Association representatives.

MS/P Gardner/Moore to approve the request as submitted with the following findings.

Findings:

1. The area designated is included in the DNR Final Report Sensitive Lake Shore Survey Ada Lake (11-0250-00) May 2009.
2. Designation as Resource Protection limits to development will act to maintain current water quality and protect against degradation.
3. The proposal is consistent with Water Quality Goals of the Cass County Comprehensive Plan.

Other Business

Adams, Patrick, Woodrow Township on property described as Lot 1, Block 1, "Partridge Point", Section: 8-140-29 - PID # 51-360-0105 located at 1745 "Partridge Lane NW. A request received to revise VP11-140-29 to include a walkout basement under the approved addition. Variance was approved for the 28' x 34' addition and deck to be flush with the existing structure at the 10/10/11 PC meeting.

MS/P Ballenthin/Gardner not to revise the initial approval.

Chapman, Julie & Michael, Rogers Township on property described as Lot 6, "Fawn Park", Section 20-142-27, PID # 36-397-0060 located at 8225 Boy Lake Drive NE. A request received to revise the footprint for VP11-142-27-1 which was approved 07/11/11. The property contains 1.12 acres riparian to Boy Lake (GD).

MS/P Moore/Gardner to revise as submitted with the condition that evidence of shore restoration be submitted prior to revision of permit to proceed.

Swales, John, Powers Township on property described as Lots 19 & 20 & Part of Lot 21, "Horseshoe Beach", Section 21-139-30, PID # 34-417-0191 located at 1120 W Horseshoe Drive NW. A request received to extend expiration date of VP08-139-30-6, which was approved 01/12/09, to 01/12/13. The property contains .56 acre riparian to Horseshoe Lake (RD).

MS/P Gardner/Moore not to revise the initial approval.

MS/P Moore/Gardner at 4:10 pm, to adjourn.

P. Fairbanks