



Cass County
Planning Commission/Board of Adjustment

July 23, 2012

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting July 23, 2012 in the meeting room of the Cass County Land Department in Backus. The field inspection was conducted July 16, 2012 with Ballenthin, Bliss, Fitch, Gardner, Kostial, Moore and Sundberg present.

Sundberg called the meeting to order at 9:17 a.m.

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

Staff Present: Berg, Fairbanks and Ringle.

Citizens Present: Clyde Bloomer, Willie Bloomer, Al Chacey, Clyde DeBolt, Tom Dechman, Ward Eames, Melanie Ford, Barb Hanson, Loren Hanson, Mark Johnson, Butch McDonald, Travis Miller, Tim Noble, Steve Noble, Paul O'Brien, Jeff Peterson, Nancy Richards, Rod Richards, Bob Riesselman, Jodi Riesselman, Jerry Robertson, Judy Robertson, Thomas Theisen, Kathy Wagner, Norm Wieland and Marla Yoho.

MS/P Ballenthin/Fitch to approve the minutes of the 06/04/12 PC/BOA meeting as presented.

Variance

Bergeron, James, Wabedo Township on property described as Lot 2, Block 1, "Kirks Wabedo Park", Section 26-140-28, PID # 46-450-0110 located at 1620 Wabedo Park Road NE. An application submitted to replace the existing residence with a new 40 feet x 46 feet residence with a 12 feet x 40 feet deck located 75 feet from the lake and to locate a SSTS 50 feet from the lake. Section 1126.1 A. of the Land Use Ordinance requires structures to be 100 feet and SSTS 75 feet from a lake classified Recreational Development (RD). The property contains 5 acres riparian to Wabedo Lake (RD).

PC members were at the site 06/04/12 and 07/23/12. 38 notices of the application were mailed.

MS/P Ballenthin/Kostial to table consideration of the application until the 08/13/12 meeting as requested by the applicant.

Bloomer, Clyde & Wilretta, Boy Lake Township on property described as Part of Gov Lot 9, Tract D, Section 5-142-28, PID # 07-005-4211 located at 636 Boy Bay Lane NW. An application submitted to replace an existing 20 feet x 40 feet residence with new 30 feet x 50 residence construction located 60 feet from the lake. Section 1126.1 of the Land Use Ordinance requires structures to be 75 feet from a lake classified General Development (GD). The property contains 1.2 acres riparian to Leech Lake (GD).

PC members were at the site 07/16/12. 20 notices of the application were mailed with one response of support for approval received. The proposal was discussed and reviewed with the applicants concentrating on gaining some increase in setback from the lake.

MS/P Moore/Bliss to deny the location at 60 feet from the OHWL of a proposed residence upon PID # 07-005-4211 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. Approval of a new larger residence, 1,500 square feet from 1,200 square feet, at 60 feet is not in harmony with the general purposes and intent of the official control and inconsistent with the comprehensive plan.
2. The applicants have failed to establish that there are practical difficulties in locating new construction further from the lake.

MS/P Kostial/Ballenthin to approve at 67 feet from the OHWL the setback of a new residence upon PID # 07-005-4211 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 permit archive contains no record of when the residence was constructed.
2. As allowed by statute and ordinance the residence could be replaced at current setback footprint and volume.
3. The proposed larger residence seems a reasonable use of the property when taking into account that the proposed larger residence will increase impervious coverage on the lot from 4.88% to 5.42% and that it will be mostly unobservable from the lake as is the current residence is and therefore will not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
4. The size of the proposed larger structure is not excessive and when considering impervious coverage and that it will not be out of scale or obtrusive to neighboring property and 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. There is no reason to conclude that area land use will be negatively affected or altered by a structure that will be 300 square feet larger at 67 feet from the lake. 6. There is no reason to conclude based upon the size and location of the proposed structure that water quality will be negatively affected. 7. 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 shoreline 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 per square foot of the buffer area for no-mow or \$3 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 residence and decks shall not exceed that submitted 06/20/12 and shall not be less than 67 feet from the lake.
2. Any debris resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
3. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
4. ESD shall evaluate shoreline vegetation and determine the need for enhancement or maintenance. If enhancement required, the applicant shall submit a written plan and implementation schedule for suitable vegetation to be approved by ESD and agreed to be implemented by applicant. At applicant's option, the vegetative plan may be substantially implemented as determined by ESD or financial assurance in the amount of \$1 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate in favor of Cass County shall be submitted.
5. No run-off to the lake or adjoining properties is permitted. The approved structure if determined necessary by ESD shall redirect run-off 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. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.

7. Approval shall expire 07/23/14.

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.

Eames, Earl & Margaret, Wabedo Township on property described as Lot 9, Block 1, "Berg's North View", Section 14-140-28, PID # 46-395-0135 located at 1924 Norway Lane NE. An application submitted to expand a non-conforming residence with a 6 feet x 36 non-lakeside porch. The residence is non-conforming because it is located 39 feet from the lake. Section 1126.1 of the Land Use Ordinance requires structures to be 100 feet from a lake classified Recreational Development (RD). Section 1115. B. of the Land Use Ordinance requires a variance for any expansion of a non-conforming structure. The property contains 2.18 acres riparian to Little Boy Lake (RD).

PC members were at the site 07/16/12. 25 notices of the application were mailed with no responses received. The application was discussed and reviewed with Mr. Eames and Mr. Theisen.

MS/P Ballenthin/Kostial to approve the location and size of the expansion of the residence located upon PID # 46-395-0135 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 setback of the residence at 50 feet was approved by variance in 1978.
2. The proposed addition to the residence will be non-lakeside.
3. The proposed expansion seems a reasonable use of the property when taking into account that the expansion will be 216 square feet and that it will be unobservable from the lake and not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
4. The proposed expansion is non-lakeside, not excessive of scale and not obtrusive to neighboring property which does 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. There is no reason to conclude that area land use will be negatively affected or altered by the porch size or location.

6. There is no reason to conclude that water quality will be in any way affected by the size or location of the porch.

7. 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 shoreline 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 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate.

4. As required by other conditions as set forth.

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

Conditions:

1. The dimensions and location of the porch shall not vary from that submitted 6/20/12.

2. Any debris resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.

3. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.

4. ESD shall evaluate shoreline vegetation and determine the need for enhancement or maintenance. If enhancement required, the applicant shall submit a written plan and implementation schedule for suitable vegetation to be approved by ESD and agreed to be implemented by applicant. At applicant's option, the vegetative plan may be substantially implemented as determined by ESD or financial assurance in the amount of \$1 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate in favor of Cass County shall be submitted.

5. No run-off to the lake or adjoining properties is permitted. The approved structure if determined necessary by ESD shall redirect run-off 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. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.

7. Approval shall expire 07/23/14.

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.

Hanson, Barbara & Loren, Ponto Lake Township on property described as Lots 51 -53, "Shadywood Shores", Section 14-139-29, PID # 32-403-0510 located at 544 Shady Shore Trail NE. An application submitted to expand an existing 24 feet x 24 feet garage with 12 feet x 24 feet lakeside addition which will bring the setback to 75 feet from the lake. Section 1126.1 of the Land Use Ordinance requires structures to be 100 feet from a lake classified Recreational Development (RD). The property contains .94 acre riparian to Hand Lake (RD).

PC members were at the site 07/16/12. 36 notices of the application were mailed with no responses received. The proposed variance was discussed and reviewed with the applicants.

MS/P Kostial/Bliss to approve the expansion of the garage located at PID # 32-403-0510 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 setback of the garage at 90 feet from the lake was approved by permit in 1990 when Hand Lake setback was 85 feet.
2. The location of the SSTS prohibits expansion of the garage non-lakeside.
3. The proposed garage expansion seems a reasonable use of the property when taking into account that the expansion will be 216 square feet mostly unobservable from the lake which does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
4. The proposed expansion is small, not out of scale and not obtrusive to neighboring property 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. There is no reason to conclude that area land use will be negatively affected by the location of the garage expansion.

6. There is no reason to conclude that water quality will be in any way affected by the expansion of the garage.

7. 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 suitable 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 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other conditions as set forth.

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

Conditions:

1. The dimensions and location of the expansion shall not vary from that submitted 6/20/12.
2. Any debris resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
3. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
4. ESD shall evaluate shoreline vegetation and determine the need for enhancement or maintenance. If enhancement required, the applicant shall submit a written plan and implementation schedule for suitable vegetation to be approved by ESD and agreed to be implemented by applicant. At applicant's option, the vegetative plan may be substantially implemented as determined by ESD or financial assurance in the amount of \$1 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate in favor of Cass County shall be submitted.
5. No run-off to the lake or adjoining properties is permitted. The approved structure if determined necessary by ESD shall redirect run-off 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. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
7. Approval shall expire 07/23/14.

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.

Johnson, Mark & Roselind, Wabedo Township on property described as 160 Feet of Gov Lot 8, Section 27-140-28, PID # 46-027-2213 located at 1219 Wabedo Pass Road NE. An application submitted to expand a non-conforming residence with a 19 feet x 24 feet, 12 feet x 14 feet, 12 feet x 19 feet addition. The residence is non-conforming because it is located 87 feet from the lake and less than 30 feet from the top of a bluff. Section 1126.1 A. of the Land Use Ordinance requires structures to be 100 feet from a lake classified Recreational Development (RD). Section 1126.1 B. requires structures to be located 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 2.4 acres riparian to Wabedo Lake (RD).

PC members were at the site 06/04/12 and 07/16/12. Consideration of this application was tabled during the 06/11/12 meeting. 36 notices for the 06/11/12 and 07/23/12 meetings were mailed. One response supporting approval of the application from Wabedo Township was received along with one response from MN DNR opposed to approval received. The application was discussed and reviewed with Mr. Johnson.

MS/P Gardner/Fitch to approve the size and location of the expansion of the residence located upon PID # 46-027-2213 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. Although is no permit record of the construction of the residence, the lot was created in 1975 so it is assumed that it was constructed in that time period at which time lake setback was 85 feet and when bluff setback was not administered.
2. The proposed expansion as it relates to impervious coverage is not significant and will result in and increase to 11.65% from 10.9%.
3. As noted by DNR comment, this portion is deemed sensitive but the slope to the lake is heavily vegetated and there is no present indication of sediment making its way to the lake.
4. In addition to the vegetation on the slope to the lake, the expansion will included evaluation and if determined necessary, structure gutters and run-off retention structures to ensure no sedimentation reaching the lake.
5. The proposed expansion seems a reasonable use of the property when taking into account that the location expansion will be mostly unobservable from the lake which does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.

6. The proposed expansion is not out of scale and not obtrusive to neighboring property 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. There is no reason to conclude that area land use will be negatively affected by the location of the expansion.
8. There is no reason to conclude that water quality will be in any way affected by the expansion.
9. 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 shoreline 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 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other conditions as set forth.

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

Conditions:

1. The dimensions and location of the expansion shall not vary from that submitted 07/23/12.
2. Any debris resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
3. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
4. ESD shall evaluate shoreline vegetation and determine the need for enhancement or maintenance. If enhancement required, the applicant shall submit a written plan and implementation schedule for suitable vegetation to be approved by ESD and agreed to be implemented by applicant. At applicant's option, the vegetative plan may be substantially implemented as determined by ESD or financial assurance in the amount of \$1 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate in favor of Cass County shall be submitted.

5. No run-off to the lake or adjoining properties is permitted. The approved structure if determined necessary by ESD shall redirect run-off 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. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
7. Approval shall expire 07/23/14.

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.

Noble, Michelle & Steven, Wabedo Township on property described as Part of Gov Lot 7, Section 19-140-28 & Part of Gov Lot 1, Section 30-140-28, PID # 46-019-4308 located at 3198 State 84 NE. An application submitted to remove the existing 34 feet x 44 feet one level residence located 22 feet from the lake and replace with new construction of a 44 feet x 45 feet two level residence to be located 38 feet from the lake. Section 1126.1 of the Land Use Ordinance requires structures to be 100 feet from a lake classified Recreational Development (RD). The property contains 1.45 acres riparian to Mule Lake (RD).

PC members were at the site 07/16/12. 46 notices of the application were mailed. 8 responses including that of Wabedo Township all opposed to approval of the application were received. The proposed variance was discussed and reviewed with the applicants. The application was withdrawn from consideration by Mr. Noble.

O'Brien, Paul, Unorganized on property described as USFS Lease, East High Banks, Lot 9, Section 29-146-27, PID # 70-842-0090 located at 17590 N Highbanks Road NW. An application submitted to expand a non-conforming residence with a 12 feet x 22 feet addition. The parcel is located within the jurisdiction of the Mississippi Headwaters Board and Management Plan. Section F of the MHMP requires structures to be located no closer than 100 feet from the OHWL of a Headwaters Lake classified General Development (GD). In addition, Section V.3 of the MHMP does not allow for expansion of a non-conforming structure. The property contains about .9 acres non-riparian to Lake Winnibigoshish (GD).

PC members were at the site 07/16/12. 13 notices of the application were mailed with three responses all in support of approval of the application received. The proposal was discussed and reviewed with the applicant.

MS/P Kostial/Gardner to approve the application as submitted for the expansion of the residence located at PID # 70-842-0090 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 residence is located on a USFS non-riparian lease lot.
2. The residence is less than 100 feet from the lake and therefore deemed non-conforming.
3. It is assumed that the residence was constructed prior to the adoption of the Mississippi Headwaters Management Plan.
4. The original construction and the proposed addition have been permitted by the USFS.
5. The MHB Management Plan requires setback of 100 feet.
6. The addition to the residence will be at the current lake setback
7. The proposed expansion seems a reasonable use of the property when taking into account that it will be contain 264 square feet mostly unobservable from the lake which does not contradict the purpose of the MHMP which is to enhance and protect outstanding and unique natural, scientific, historical, recreational and cultural values of the first 400 miles of the Mississippi River.
8. The proposed expansion is small, not out of scale and not obtrusive to neighboring property which does contradict the purpose of the MHMP which is to enhance and protect outstanding and unique natural, scientific, historical, recreational and cultural values of the first 400 miles of the Mississippi River.
9. There is no reason to conclude that area land use will be in any way affected by the location of the expansion.
10. There is no reason to conclude that water quality will be in any way affected by the expansion.
11. 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 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other conditions as set forth.

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

Conditions:

1. The dimensions and location of the expansion shall not vary from that submitted 06/20/12.
2. Any debris resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
3. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
4. ESD shall evaluate shoreline vegetation and determine the need for enhancement or maintenance. If enhancement required, the applicant shall submit a written plan and implementation schedule for suitable vegetation to be approved by ESD and agreed to be implemented by applicant. At applicant's option, the vegetative plan may be substantially implemented as determined by ESD or financial assurance in the amount of \$1 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate in favor of Cass County shall be submitted.
5. No run-off to the lake or adjoining properties is permitted. The approved structure if determined necessary by ESD shall redirect run-off 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. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
7. Approval shall expire 07/23/14.

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.

Ogden Trust C/o George Ogden, Woodrow Township on property described as Part of Gov Lot 3 & Part of NW SE, Section 24-140-29, PID # 51-024-3105 located at 3297 N Green Forest Drive NW. An application submitted to construct an 8 feet x 25 feet deck to be located on the lake side of the residence which will be 67 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). The property contains .7 acre riparian to Woman Lake (GD).

PC members were at the site 05/07/12. 36 notices of the application were mailed. One response from Woodrow Township which recommends denial of the application was received. The proposed variance was reviewed concentrating on possible alternative location of the deck connected by a walkway from the lakeside doors to which the applicant via letter has indicated his rejection of such an alternative.

MS/P Gardner/Fitch to deny the application to place a lakeside deck on the residence located at PID # 51-024-3105 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.

1. The residence was constructed in 1972 with upper level lakeside doors for access to a deck which was never constructed.
2. The proposed location of the deck contradicts 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 location of the proposed deck is obtrusive and oversized when taking into account the location of neighboring property which will 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 applicant has failed to demonstrate any willingness to consider a reasonable alternative to locate deck to the side of the residence with access from the doors by a walkway which would satisfy the desire for a deck and to utilize the currently unusable doorway.

Riesselman Joan & Robert, Kego Township on property described as Lot 12, "Blair's Pine Acres", Section 33- 141-28, PID # 19-477-0120 located at 4896 Barclay Drive NE. An application submitted to remove an existing residence and replace with new 60 feet x 58 feet 8 inch construction to be located 40 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 .56 acre riparian to Girl Lake (RD).

PC members were at the site 07/16/12. More than 50 notices of the application were mailed. Four responses all favoring approval of the application were received. The proposed variance was discussed and reviewed with Mr. Riesselman and their architect.

MS/P Moore/Kostial to table consideration of the application until the 08/13/12 meeting in order for the applicants to consider possible alternative site location options.

Robertson, Jerome, Remer Township on property described as 2.5 Acres of Gov Lot 2, Section 3-141-26, PID # 35-003-1203 located at 6209 72nd St NE. An application submitted to remove an existing residence and replace with new construction to be located 50 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 3.04 acres riparian to Big Sand Lake (RD).

PC members were at the site 04/02/12, 05/07/12 and 07/16/12. 30 notices of the application were mailed for the April, May and July meetings. No responses have been received.

MS/P Fitch/Gardner to approve a residence described as Option A in the submittal for PID # 35-003-1203 upon review of the criteria contained in Section 800 of the Land Use Ordinance (01/10/10) with the following findings.

Findings:

1. The proposed structure will not increase the current encroachment.
2. The proposed residence seems a reasonable use of the property when taking into account the location and screening to the lake which 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 and location proposed residence is reasonable when considering the location of the residence and the location of neighbors and will 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 proposed structure will not be excessive size or scale and will be well screened from the lake and neighbors therefore there is no reason to conclude that area land use will be negatively affected or altered.
5. There is nothing to indicate that water quality will be negatively affected by the location of the structure.
6. 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 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other conditions as set forth.

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

Conditions:

1. The dimensions and location of the structure shall not vary from that noted as Option A which was submitted 07/09/12.

2. Any debris resulting from construction not reused or recycled must be disposed of in a permitted facility.
3. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
4. ESD shall evaluate shoreline vegetation and determine the need for enhancement or maintenance. If enhancement required, the applicant shall submit a written plan and implementation schedule for native vegetation to be approved by ESD and agreed to be implemented by applicant. At applicant's option, the vegetative plan may be substantially implemented as determined by ESD or financial assurance in the amount of \$1 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate in favor of Cass County shall be submitted.
5. No run-off to the lake or adjoining properties is permitted. The approved structure if determined necessary by ESD shall redirect run-off 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. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
7. Approval expires 06/11/14.

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

Monkman, Dave, McKinley Township on property owned by Samantha Monkman, Michael Nosek & Christine Ruhl described as part of Gov Lot 1, PID # 25-034-1100, PID # 25-034-1101, PID # 25-034-1102, s PID # 25-034-1103, Part of Gov Lot 2, PID # 25-034-1403, PID # 25-034-1404, S 200 feet of N 608 Feet of Gov Lot2 , PID # 25-034-1405, part of NW NE, PID # 25-034-1204, & NW NE Except the N 660 feet Thereof also Including the SW NE Excluding the S $\frac{2}{3}$ of S $\frac{1}{4}$, PID # 25-034-1001 all in Section 34-138-32 across Spot Lake from TH # 64. An application submitted calls for the movement of more than 200 cubic yards for construction of a roadway intended to provide access o a proposed conservation design development proposed along the west side of Spot Lake (NE). Section 705 of the Land Use Ordinance establishes conditional use permit (CUP) review criteria and process. Section 1106.2 of the Land Use Ordinance establishes the earth moving shoreland area standards. The property contains 112.8 acres riparian to Spot Lake (NE).

PC members were at the site 07/16/12. 30 notices of the application were mailed. One response supporting approval of the application was received. Several neighboring property owners were present to express their displeasure with the proposed roadway and the proposed residential project in general. The application was discussed and reviewed with Mr. Monkman, Mr. Kramer and Ms. Ford.

MS/P Moore/Ballenthin to approve the application as submitted for the movement of more than 200 cubic yards of earthen material for roadway construction in Section 34 of McKinley Township upon review of Sections 705 and 1106.2 of the Land Use Ordinance (01/10/10) with the following findings and conditions.

Findings:

1. No wetland or critical habitat will be affected.
2. No scenic or historic features will be affected.
3. The roadway poses no particular likelihood to harm to public health, safety or welfare.
4. The roadway is necessary to provide access for the proposed conservation design of "Loch Haven".
5. The roadway will not increase the need or demand for governmental services.

Conditions:

1. The plans and specifications submitted 06/21/12 are adopted for implementation.
2. All applicable approvals, permits and easements shall be obtained.
3. If total project area exceeds one acre NPDES must be obtained with copy provided to ESD.
4. ESD must approve the placement of appropriate construction erosion control measures prior to the commencement of any construction.

Other Business

Hewitt, David & Laura, Fairview Township on property described as Lot 5, Block 1, "Hunters Point Estates", Section 18-134-29, PID # 14-386-0135 located on Perch Lane SW. An application to construct a 2,182 square feet residence and a privacy fence to be located 12 feet from the top of a bluff. Section 1116.1 of the Land Use Ordinance requires structures to be located 30 feet from the top or toe of a bluff. The property contains .57 acres riparian to Gull Lake (GD). Consideration of this application was tabled during the 10/13/08 meeting and then approved 11/10/08. Mr. Hewitt requests extension of the approval expiration to 12/8/14.

MS/P Ballenthin/Gardner to deny the request to extend the expiration date for VP08—134-29-1 which was approved 11/10/08.

MS/P Fitch/Moore at 2:30 pm, to adjourn.

P. Fairbanks