



Cass County
Planning Commission/Board of Adjustment

September 10, 2012

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting September 10, 2012 in the meeting room of the Cass County Land Department in Backus. The field inspection was conducted September 4, 2012 with Ballenthin, Fitch, Gardner, Kostial, Moore and Sundberg present.

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

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

Staff Present: Berg, Fairbanks and Ringle.

Citizens Present: Martin Andresen, Mary Carroll, Steve Hornung, Terry Freeman, Dave Johnson, Dennis King, Dan Kociemba, Nancy Kociemba, Sandi Kreuger, Ross Lindmeyer, Steve Pederson, Jeff Peterson, William Skeesick, Neil Travis, Matt Van Brieson and Sherrie Van Brieson.

MS/P Ballenthin/Kostial to approve the minutes of the 08/13/12 PC/BOA meeting as corrected.

Variance

Brockberg, Debra & Jeffery, Shingobee Township on property described as Part of Gov Lot 2 Lying W of M & I RY, Section 2-141-31, PID #38-002-4103 located at 5278 Sumac Lane NW. An application submitted to expand an existing residence with a 14 feet x 36 feet addition to be located 46 feet from the lake at the closest point. The residence is non-conforming because it is located less than 75 feet from the lake. Section 1126.1 of the Land Use Ordinance (2010) requires structures to be 75 feet from a lake classified General Development (GD). Section 1115. 3 of the Land Use Ordinance (2010) requires a variance for the expansion of a non-conforming structure. The property contains 1.13 acres riparian to Leech Lake (GD).

PC members were at the site 09/04/12. 27 notices of the application were mailed. No responses were received. The variance request was reviewed with the applicants.

MS/P Moore/Kostial to approve the expansion of the residence located at PID #38-002-4103 upon review of the criteria contained in Section 800 of the Land Use Ordinance (01/10/10) and M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. The lot which became of record in 1947 is a peninsula.
2. As best can be determined the residence was constructed prior to the implementation of land use regulation.
3. The residence is more than 75 feet from the lake at the west end of the peninsula shaped lot.
4. Re-location of the proposed expansion would require extensive internal reconfiguration which seems unreasonable at best.
5. The proposed expansion seems a reasonable use of the property when taking into account that the expansion will contain 504 square feet and that it will be mostly unobservable from the lake and neighbors 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 neither excessive of scale nor 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.
7. There is no reason to conclude that area land use will be negatively affected or altered by the size or location of the proposed expansion.
8. There is no reason to conclude that water quality will be in any way affected by the size or location of the proposed 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 08/20/12.
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 is 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 09/10/14.

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.

Gayken, Sherrie, Powers Township on property described as Lot 3, "Northern Estates", Section 26-139-30, PID #34-436-0030 located at 723 29th Ave NW. An application submitted to expand an existing non-conforming residence with a 12 feet x 32 feet non-lakeside addition. The residence is non-conforming because it is located 43 feet from the lake. Section 1126.1 of the Land Use Ordinance (2010) requires structures to be 100 feet from a lake classified Recreational (RD). Section 1115. 3 of the Land Use Ordinance (2010) requires a variance for the expansion of a non-conforming structure. The property contains .93 acre riparian to Johnson Lake (RD).

PC members were at the site 09/04/12. 38 notices of the application were mailed. No responses received. The variance request was reviewed with the applicants' representative Mr. Travis.

MS/P Gardner/Fitch to approve the expansion of the residence located at PID #34-436-0030 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 with the following findings and conditions:

Findings:

1. The residence was constructed in 1973 with permit at which time the setback to Johnson Lake was 50 feet.
2. The proposed expansion will be non-lakeside.
3. The proposed expansion seems a reasonable use of the property when taking into account that the proposed expansion is 420 square feet and that it will not be seen from the lake and is 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 expansion is not excessive or out of scale nor obtrusive to neighboring property and therefore 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 the size or location of the proposed expansion.
6. There is no reason to conclude that the size and location of the proposed expansion will have any effect to water quality.
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 expansion shall not exceed that submitted 07/31/12.

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 is 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 09/10/14.

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.

Havlik, Donna & Russell, Turtle Lake Township on property described as Lot 4, Block 1, "Big Rock Resort", Section 27-142-30, PID #45-518-0108 located at 7860 Hawthorn Trail NW. An application submitted to expand an existing residence with an 11 feet x 22 feet addition non-lakeside. The residence is non-conforming because it is located 45 feet from the lake. Section 1126.1 of the Land Use Ordinance (2010) requires structures to be 75 feet from a lake classified General Development (GD). Section 1115. 3 of the Land Use Ordinance (2010) requires a variance for the expansion of a non-conforming structure. The property contains .09 acres non-riparian to Leech Lake (GD).

PC members were at the site 09/04/12. More than 50 notices of the application were mailed. No responses were received. The proposal was discussed and reviewed with the applicants' representative Mr. Andresen who also submitted a letter of approval for the addition from the owners association.

MS/P Fitch/Gardner to approve the expansion of the residence located at 45-418-0108 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. There is no record in the permit archive for original construction of the structure.
2. The proposed expansion will be non-lakeside.
3. The proposed expansion seems a reasonable use of the property when taking into account that it will be no non-lakeside 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 not excessive 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 or altered by the size or location of the proposed expansion.
6. There is no reason to conclude that water quality will be in any way affected by the size or location of the proposed expansion.
7. The expansion will bring the structure into compliance with minimum DOH resort unit standards.
8. The owners' association has acknowledged and approved 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.

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 08/06/12.
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 is 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 09/10/14.

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.

Hornung, Gayle & Steve, Kego Township on property described as Part of Gov Lot 6, Section 31-141-28, PID #19-031-4215 located at 4965 Mae Bill Drive NW. An application submitted to expand an existing residence with an increase of roof height to the peak of the existing

residence. The residence is non-conforming because it is located 71 feet from the lake. Section 1126.1 of the Land Use Ordinance (2010) requires structures to be 75 feet from a lake classified General Development (GD). Section 1115.3 of the Land Use Ordinance (2010) requires a variance for the expansion, footprint and/or volume, of a non-conforming structure. The property contains .29 acres riparian to Woman Lake (GD).

PC members were at the site 09/04/12. 41 notices of the application were mailed. No responses were received. The variance request was discussed and reviewed with Mr. Hornung.

MS/P Ballenthin/Moore to approve the expansion of the residence located at PID # 19-031-4215 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. There is no permit record of the construction of the residence.
2. The lot was created in 1954 so it is assumed that it was constructed prior to the adoption of land use regulation.
3. The proposed new construction is for roof reconfiguration with no additional living space included.
4. The proposed new construction seems a reasonable use of the property when taking into account that the same footprint area will be occupied and that it 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.
5. The proposed new construction is not out of scale and will not be 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.
6. There is no reason to conclude that area land use will be negatively affected by the roof reconfiguration.
7. There is no reason to conclude that water quality will be in any way affected by the roof reconfiguration.
8. There is no reason to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: If the following conditions are included, no permit to implement shall be issued until and if.

1. ESD required and approved erosion control is installed.

2. A written plan for 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 08/20/12.
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 is 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. The PC recommends 15 feet more or less from the OHWL for shoreline vegetation restoration.
6. 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.
7. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
8. Approval shall expire 09/10/14.

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.

Hunter, Sherrie/VanBresen, Matt, Sylvan Township on property describes as E 150 Ft of NE NW Lying N of State Hwy #210, Section 17-133-29, PID #41-117-2103 located at 1508 State 210 SW. An application submitted to construct 36 feet x 56 feet (2,016 sq ft) accessory structure to be located 45 feet from the right-of-way of TH #210. Section 1101 of the Land Use Ordinance (2010) allows for 1,200 square feet on a lot that contains .5 - .99 acres. Section 1126.1 of the Land Use Ordinance (2010) requires structures to be 50 feet from the right-of-way of a state highway. The property contains .78 acres non-riparian to the Gull River (TR).

PC members were at the site 09/04/12. 28 notices of the application were mailed. One response from Sylvan Township recommending approval of the proposed setback but not increased size was received. The proposal was discussed and reviewed with the applicants who indicated that the re-surveyed size of the lot is 1.4 acres. Said survey has not been recorded therefore not recognized by the county.

MS/P Moore/Ballenthin to table consideration of the application until the 10/08/12 meeting in order for the actual lot size to be determined by the survey and the county

Kociemba, Daniel, Thunder Lake Township on property described as Lot 6, Block 1, "Manders Pine Acres", Section 27-140-26, PID #42-442-0125 located at 5960 S Bass Lake Drive NE. An application submitted to construct 26 feet x 38 feet (988 sq ft) accessory structure. Section 1101 of the Land Use Ordinance (2010) allows for 1,200 square feet on a lot that contains .5-.99 acres. The property current contains 676 square feet of accessory structure. The proposed construction would exceed the maximum allowed by 464 square feet. The property contains .87 acres non-riparian to Bass Lake (RD).

PC members were at the site 09/04/12. 31 notices of the application were mailed. Two responses offering no objection to approval of the application were received. The proposal was discussed and reviewed with Mr. Kociemba who during the course of the discussion withdrew the wood storage shed from consideration and after the motion to deny was approved offered to remove the existing privy/fish cleaning structure from the property in order to reduce existing accessory structure density.

MS/Denied Ballenthin/Kostial - Ballenthin-Yes, Bliss-Yes, Fitch-No, Gardner-No, Kostial-Yes, Moore-No, Sundberg-No to approve the application as submitted to exceed the maximum square footage accessory allowed based on lot size for PID #42-442-0125.

MS/P Fitch/Gardner to approve the construction of an accessory structure in excess of the maximum amount allowed for PID #42-442-0125 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 applicants have offered to remove the privy/fish cleaning structure from the property no later than 11/01/12.
2. The lot became of record in 1971 prior to the regulation of accessory structure size based upon lot size.
3. The proposed accessory structure seems a reasonable use of the property when taking into account the size over maximum allowed, 464 square feet, its location, it will be mostly unobservable from the lake and screened from S Bass Lake Road 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 size and scale of the proposed accessory structure will not be obtrusive to lake or neighborhood 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.
5. The proposed structure will be in scale and similar to other structures along S Bass Lake Drive therefore there is no reason to conclude that area land use will be negatively affected or altered.
6. There is nothing to indicate that water quality will in any way affected by the location of the accessory structure.
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. As proposed by the applicants, the privy/fish cleaning structure shall be removed from the property no later than 11/01/12.
2. The dimensions and location of the accessory structure shall not exceed that submitted 08/23/12 with side wall not to exceed 10 feet.
3. Any debris resulting from construction not reused or recycled must be disposed of in a permitted facility.
4. 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.
5. ESD shall evaluate shoreline vegetation and determine the need for enhancement or maintenance. If enhancement is 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.
6. 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.
7. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
8. Approval expires 09/10/14.

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.

Lilyquist, Dennis & Elaine, Kego Township on property described as Part of W $\frac{1}{2}$ SE SW, Section 35-141-28, PID #19-035-3402 located at 1662 County 7 NE. An application submitted to expand an existing residence with a 20 feet x 24 feet addition. The residence is non-conforming because it is located 19 feet from the right-of-way of CSAH #7. Section 1126.1 of the Land Use Ordinance (2010) requires structures to be 50 feet from the right-of-way of a county roadway. Section 1115. 3 of the Land Use Ordinance (2010) requires a variance for the expansion of a non-conforming structure. The property contains 3.44 non-riparian acres within the shoreland (1,320 feet OHWL) area of the Boy River (F).

PC members were at the site 09/04/12. 39 notices of the application were mailed. One response from County Engineer David Enblom offering no objection to approval was received. The proposed variance was reviewed with Mr. Lilyquist.

MS/P Kostial/Fitch to approve the expansion of the residence located upon PID #19-035-3402 as submitted 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 County Engineer has offered no objection to the proposed expansion.
2. The property became of record in 1946 and it is assumed the residence was constructed prior to the adoption of land use regulation.
3. It is presumed that the width of CSAH #7 right-of-way has increased over the years.
4. The proposed expansion seems a reasonable use of the property when taking into account its location and size and does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
5. The size of the proposed expansion is not significant when considering the location and the neighborhood which does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
6. There is no reason to conclude that area land use will be affected or altered by the proposed expansion.
7. The expansion will increase the existing non-conformity.
8. There is no reason to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: If the following conditions are included, no permit to implement shall be issued until and if.

1. ESD required and approved erosion control is installed.
2. A written plan for 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 accessory structure shall not exceed that submitted 07/30/12.
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 is 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 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 09/10/14.

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.

Pederson, Carol & Steve, Crooked Lake Township on property described as E $\frac{1}{2}$ Lot 11 & Lot 12, "Windy Acres", Section 4-139-26, PID #12-352-0120 located at 5773 Fehrs Drive NE. An application submitted to expand an existing non-conforming residence with a 24 feet x 30 second story expansion and an 8 feet x 12 feet deck and an 8 feet x 18 feet addition located non-lakeside 2 feet from the right-of-way of a platted road. The residence is non-conforming because it is located less than 30 feet from the lake and 10 feet from a platted right-of-way. Section 1126.1 of the Land Use Ordinance (2010) requires structures to be 75 feet from a lake classified General Development (GD) and 20 feet from the right-of-way of a platted road. Section 1115.3 of the Land Use Ordinance (2010) requires a variance for the expansion of a non-conforming structure. The property contains .2 acre riparian to Lake Washburn (GD).

PC members were at the site 09/04/12. 30 notices of the application were mailed. No responses were received. The proposed variance was discussed and reviewed with Mr. Pederson.

MS/P Moore/Fitch to approve the expansion of the residence as submitted for PID #12-352-0120 upon review of the criteria contained in Section 800 of the Land Use Ordinance (01/10/10) with the following findings and conditions.

Findings:

1. The property was platted in 1960 with a depth of lake to road from 50 feet to 100 feet.
2. The proposed expansion will change the existing lake setback encroachment.
3. The permit archive contains no record of original construction although it is presumed it was prior to land use regulation.
4. There is no way to increase livable area except by construction of an upper level.
5. The proposed expansion seems a reasonable use of the property when taking into account the size of the lot and does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
6. The proposed expansion will not be out of scale and or will it be obtrusive to the lake and 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.
7. There is no reason to conclude that area land use will be negatively affected by the proposed 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 08/21/12.
2. Verification that the existing structure can support an upper level must be submitted prior to permit authorization.
3. Roof height lakeside should be kept as low as possible.
4. Approval does not allow or imply that the structure to be expanded can be removed by demolition or any other method from the site nor shall the structure to be expanded be reduced to "one wall".
5. Any debris resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
6. 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.
7. ESD shall evaluate shoreline vegetation and determine the need for enhancement or maintenance. If enhancement is 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.
8. 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.
9. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
10. Approval shall expire 09/10/14.

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

DRJO LLC/Lodges at Blue Water, Shingobee Township on property described as Outlot G, "Lodges of Bluewater" Section 2-141-31, PID # 38-343-0007 & Outlot H, "Lodges of Bluewater, Section 2-141-31, PID # 38-343-0008 located at 7051 Wintergreen Trail NW. An application submitted for the movement of more than 200 cubic yards for construction of parking area along with a structure for the retention of run-off. 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 12.6 acres riparian to Leech Lake (GD).

PC members were at the site 09/04/12. More than 75 notices of the application were mailed. One response objection or approval was received. The application was discussed and reviewed with DRJO representative Mr. Rohlf and Mr. Freeman of NE Engineering.

MS/P Moore/Kostial to approve the movement of excavated material and construction as submitted for PID #38-343-0007 and PID #38-343-0008 as submitted upon review of Sections 705, 1106.2 and 1106.6 of the Land Use Ordinance (01/10/10) with the following findings and conditions.

Findings:

1. A SWPPP designed by a licensed engineer has been obtained.
2. No wetland or critical habitat will be affected.
3. No scenic or historic features will be affected.
4. The proposed project poses no particular likelihood to harm to public health,
5. The proposed project will not increase the need or demand for governmental services.

Conditions:

1. The plans and specifications submitted 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.
5. Financial assurance in the amount of \$10,000 must be submitted no later than 09/30/12 or the project shall be ordered to cease.
6. Approval expires 09/10/14.

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.

Graton, Leonard Living Trust, Becker Township on property on described as SE SE, Section 27-134-32, PID #03-027-4400 located at 11561 79th Ave SW. An application submitted to re-classify 10 acres only of the S $\frac{1}{2}$ of SE $\frac{1}{4}$ containing 40 acres containing the residence/buildings from Agricultural/Forestry (AF) to Rural Residential 10 (RR-10). Such action requires approval by conditional use permit (CUP). Section 705 of the Land Use Ordinance (2010) establishes conditional use permit (CUP) review criteria and process. Section 903 of the Land Use Ordinance (2010) establishes the various land use zone classifications. Section 1113.2 of the

Land Use Ordinance (2010) establishes minimum lot size standards. The total area of PID #03-027-4400 is 79.26 non-riparian acres (AF).

28 notices of the application were mailed. No responses were received. The application was discussed and reviewed with applicant's representative Mr. Skeesick.

MS/P Gardner/Fitch to approve the reclassification of 10 acres in the configuration as submitted located in PID #03-027-4400 upon review of Sections 705, 901 and 1113 of the Land Use Ordinance (01/10/10) with the following findings and conditions.

Findings:

1. The applicant intends to retain the 10 acres on which the residence is located.
2. The application complies with the intent of the Rural Residential - 10 (RR-10) classifications which are to promote low density development outside the shoreland zone not close to a municipality.
3. The 10 acres proposed for reclassification represents an insignificant percentage of the total acreage of the township.
4. There is no reason to expect that one 10 acre parcel will cause adverse effects to adjoining property.
5. One 10 acre parcel will have no impact to the demand for governmental services.
6. Existing roadways will be utilized with no need to expand exiting public infrastructure.
7. No wetland or critical habitat will be disturbed by reduction of minimum lot size.
8. No scenic or historic features will be affected by the reduction of minimum lot size.
9. No threat to public health, safety and welfare can be expected from a change to minimum lot size.
10. The total acres to be reclassified do not reach the mandatory EAW threshold.
11. There is no reason to expect that the reduced lot size will have any effect to surface water or ground water quality.
12. The remaining acreage remains unchanged as AF.

Conditions:

1. An agricultural management easement as described in Appendix B-1 of the Land Use Ordinance shall be recorded in conjunction with the newly described 7.5 acres in order to be compliant and eligible for land use permits.
2. Approval expires 09/10/14.

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.

Other Business

The members heard and discussed possible options for a gazebo constructed without permit too close to the lake with Mary Carroll and Ross Lindmeyer new owners of PID #12-009-2314 formerly owned by Robert Bierstedt who was denied request for variance 08/13/12. No action taken.

The members reviewed and discussed final corrections to the proposed revisions to the Land Ordinance for presentation to the County Board in order for 2nd reading to be scheduled.

MS/P Kostial/Gardner at 3:33 pm, to adjourn.

P. Fairbanks