



Cass County
Planning Commission/Board of Adjustment

November 13, 2012

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting November 13, 2012 in the meeting room of the Cass County Land Department in Backus. The field inspection was conducted November 7, 2012 with Ballenthin, Bliss, Fitch, Gardner, Kostial Moore and Sundberg present.

Sundberg called the meeting to order at 9:33 a.m.

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

Staff Present: Berg and Fairbanks.

Citizens Present: Richard Adams, Craig Anderson, Steff Basgaard, Steve Berry, Randy Christenson, Larry Day, Steve Day, Tamara Day, Terry Freeman, Steve Freiberger, Joe Klein, Bob Lee, Barb Palkovich, Jeff Palkovich, Doug Payne Jeff Peterson, Tom Randall, Julie Solem, Mike Solem, Sue Torgerson, Norm Wieland and Greg Witt.

MS/P Ballenthin/Fitch to approve the minutes of the 10/08/12 PC/BOA meeting as amended.

Variance

Christenson, Randall & Teresa, Woodrow Township on property as described as part of Gov Lot 1, PID #51-010-1103, Section 10-140-29 located at 4365 E McKeown Drive NW. An application submitted to construct a 28 feet x 32 feet residence utilizing the existing deck. The proposed residence would be located within the bluff setback area. Section 1126.1 of the Land Use Ordinance (2010) requires structures to be 30 feet from the top or toe of a bluff. The property contains 1.16 acres riparian to McKeown Lake (RD).

PC members were at the site 11/07/12. 38 notices of the application were mailed. Four responses including that of Woodrow Township all supporting approval of the application were received. The variance request was reviewed with the applicant and Mr. Freeman with discussion centering on the existing deck and its relationship to the location of the proposed new home.

MS/P Ballenthin/Bliss to table consideration of the application until the December meeting in order for the applicant to consider various options for the location of the proposed residence.

Freiberger, Steven, Wabedo Township on property described as Ely 220 Feet of Wly 660 Feet of Gov Lot 5, PID #46-011-2103, Section 11-140-28 located at 1705 Birch Lane NE. An application submitted for the replacement of an existing 964 square foot residence with a new 1872 square foot construction 30 feet from the lake. The location is non-conforming because it is located 30 feet from Little Boy Lake. Section 1126.1 of the Land Use Ordinance (2010) requires structures to be 100 feet from a lake classified Recreational Development (RD). The property contains 9.24 acres riparian to Little Boy Lake (RD).

PC members were at the site 11/07/12. 34 notices of the application were mailed. One response from Wabedo Township recommending denial of the application was received. The variance request was reviewed with the applicant.

MS/P Ballenthin/Gardner to deny the proposed residence to be located at PID #46-011-2103 upon review of the criteria contained in Section 800 of the Land Use Ordinance (01/10/10) and in M.S. 394.27, Subdivision 7 with the following findings:

Findings:

1. The lot became of record in 1961 and there is no record in the permit archive for original construction of the structure which is presumed to be prior to the adoption of land use regulation.
2. As allowed by MS 394.36 the residence could be replaced at existing footprint and volume by permit.
3. Section 1126.1 of the Land Use Ordinance (2010) requires structures to be 100 feet from a lake classified Recreational Development (RD).
4. There is no circumstance unique to the property not created by the land owner that would prevent compliance with the land use Ordinance because the lot, 220 feet wide, 1,958 feet deep containing 9.24 acres, contains substantial buildable area where the proposed residence could be constructed without encroaching into the setback area.
5. Approval of the application would alter the essential character of the locality because it will be a substantial deviation from the requirements of the ordinance that will double the size of the structure encroachment in the lake setback area. Additionally, at 30 feet from the OHWL the location of the proposed residence will impair the appearance of the shoreline area. Finally, the location of the proposed residence would increase the impervious surface area in the lake setback area which, in turn, may increase run-off to the shoreline area and further impair the setback area from performing its ecological functions of providing habitat for shore and near shore wildlife and of filtering run-off to prevent nutrients and pollutants from entering the lake.
6. The proposed 1,872 square foot residence to be located within the lake setback area at 30 feet from the OHWL does not use the property in a reasonable manner not permitted by the

ordinance given the purposes of the setback requirements as described in # 5. because there is sufficient buildable area to construct the proposed residence at the required setback.

7. Approval of the application is not consistent with the Comprehensive Plan. As related to residential shoreland development, the Comprehensive Plan places an emphasis on maintaining and preserving the unique natural environment and natural resources of the County, especially shoreland, and balancing development that conserves and enhances the natural beauty and resources of the County for the present and future. The Comprehensive Plan contains a Surface Water Quality Goal of preserving the quality of Cass County's Surface water. The Comprehensive Plan has a Private Land Use Goal and Policy of protecting the County's natural resources from degradation including development of lake shore property with minimal natural resource impacts and preservation of critical habitats. All of these goals would be impaired by approval of the application to construct a 1,872 square feet residence with the lake setback of feet from the OHWL.

8. The application is not in harmony with the general purpose and intent of the Land Use Ordinance which as stated in Section 201, This is an ordinance which protects, preserves and enhances the quality of the lakes, rivers, forests, wetlands, natural land forms and open spaces of Cass County for future generations. In addition, it is also the goal of this ordinance to promote health, safety, general welfare and orderly development of Cass County by regulating setbacks and by maintaining and enhancing the quality and condition of the natural resources within the County.

9. The proposal to build a large new residence at 30 feet from the OHWL does not protect, preserve or enhance the quality of the lake which the required 100 feet structure setback is intended to accomplish and does not maintain or enhance the quality and condition of the lake natural resource particularly considering that the lot has sufficient buildable area to locate the residence outside of the lake setback area. Finally, as another option, the owner may replace the residence at existing footprint and volume.

Klein, Joseph, Rogers Township on property as described as Lot 7 "Fawn Park", PID #36-397-0070, Section 20-142-27 located at 8219 Boy Lake Drive NE. An application submitted to expand a non-conforming structure with a 24 feet x 44 feet second story addition. The residence is non-conforming because it is located 70 feet from the lake at the closest point. Section 1126.1 of the Land Use Ordinance (2010) requires structures to be 75 feet from a lake classified General Development (GD). In addition, Section 1115.3 requires a variance for any expansion of a non-conforming structure. The property contains .82 acres riparian to Boy Lake (GD).

23 notices of the application were mailed. One response supporting approval of the application was received. The proposal was discussed and reviewed with Mr. Klein.

MS/P Kostial/Ballenthin to table consideration of the application until the December meeting in order for the applicant to provide verification that the structure is capable of supporting a second story and to consider possible reconfiguration of the second level exposure to the lake.

Lee, Betty & Robert, May Township on property described as Part of Gov Lot 11, PID #24-007-3501, Section 7-133-31 located at 12705 State 64 SW. An application submitted to be allowed to retain a 200 square feet platform constructed without a permit. Section 1126.6 of the Land Use Ordinance (2010) allows for a platform not to exceed 150 square feet with a permit not less than 10 feet of the OHWL. The property contains 12.07 acres riparian to the Crow Wing River (F).

25 notices of the application were mailed. No responses were received. The variance request was discussed and reviewed with Mr. Lee.

MS/P Moore/Bliss to allow the 200 square feet platform to remain at existing located upon PID #24-007-3501 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 condition.

Findings:

1. The stairway to the river, permitted in 2011, is allowed to contain a 32 square feet landing.
2. A platform is allowed to contain 150 square feet.
3. The area in excess of that allowed by permit amounts to 18 square feet.
4. The property became a lot of record in 1959 and contains 12 acres with over 500 feet of shoreline.
5. The neighboring area consists of similar large single family riparian lots with residences and storage structures to which the platform will not be noticed and poses no threat to the essential character of the locality.
6. Based upon the size and shoreline of the property the platform seems not to be significant when considering that it is mostly unobservable from the river 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.
7. The platform 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.
8. There is no reason to conclude that area land use has been be negatively affected or altered by the size or location of the platform.
9. There is no reason to conclude that water quality has been in any way affected by the size or location of the platform.
10. 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.

Condition:

1. The dimensions of the platform shall not vary or be enlarged from that submitted 10/24/12.

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.

Little Bass Trust, Thunder Lake Township on property as described as Lots 20 & 21, "Oak Lawn Beach", PID #42-364-0200, Section 7-140-26 located at 5141 Oak Lawn Drive NE. An application submitted to expand a non-conforming structure with a 12 feet x 16 feet deck/ramp to be located on the non-lakeside of the residence. The residence is non-conforming because it is located 81 feet from the lake. Section 1126.1 of the Land Use Ordinance (2010) requires structures to be 100 feet from a lake classified Recreational Development (RD). In addition, Section 1115.3 requires a variance for any expansion of a non-conforming structure. The property contains .95 acre riparian to Little Bass Lake (RD).

PC members were at the site 11/07/12. 23 notices of the application were mailed. One response supporting approval of the application was received. The proposal was discussed and reviewed with the applicant's representative.

MS/P Moore/Gardner to approve the expansion of the residence located at PID #42-364-0200 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 proposed expansion will be non-lakeside.

2. 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.

3. 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.

4. 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.

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

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 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 10/23/12.

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 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 11/13/14.

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.

Powers, Roberta, Boy Lake Township on property described as part of Gov Lot 9, PID #07-005-4202, Section 5-142-28 located at 687 Boy Bay Trail NE. An application submitted to be allowed to retain a residence constructed at the location of a former boathouse. The residence is less the 75 feet from the lake and exceeds the size of the former boathouse. Section 1126.1 of the Land Use Ordinance (2010) requires structures to be 75 feet from a lake classified General Development (GD). Section 1126.4 of the Land Use Ordinance (2020) allows for a boathouse constructed prior to 1991 may be maintained or replaced provided there is no increase in size or used for living quarters.

PC members were at the site 11/07/12. 19 notices of the application were mailed. One responses supporting approval and one response from the Leech Lake Association recommending denial of the application were received. The proposed variance was reviewed with Mr. Powers.

MS/P Gardner/Fitch to table consideration of the application until the December meeting in order to determine the applicability of MS 394.36 to the 2010 permit approval and to the variance application.

Randall, Barbara & Thomas, Crooked Lake Township on property described as Lot 20 "Kavli's Wood Lake Shores", PID #12-496-0201, Section 31-139-26 located at 4987 Wood Lake Boulevard NE. An application submitted to construct a 24 feet x 28 feet accessory structure/garage to be located at the closest point 11 feet from the right-of-way Wood Lake Boulevard. Section 1126.1 of the Land Use Ordinance (2010) requires structures to be 20 feet from the right-of-way of a platted roadway. The property contains .46 acre riparian to Wood Lake (RD).

PC members were at the site 11/07/12. More than 50 notices of the application were mailed. No responses were received. The proposed variance was discussed and reviewed with Mr. Randall.

MS/P Kostial/Gardner to approve the location of the proposed accessory structure garage for PID #12-496-0201 upon review of the criteria contained in 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 lot became of record in 1961 and ranges from 165 feet to 200 feet from lake to right-of-way.
2. Structure setback is 100 feet from the lake and 20 feet from the platted right-of-way.
3. Placement at the required right-of-way setback is prohibited by the location of the SSTS.
4. The neighboring area consists of similar single family riparian lots with residences and garages to which this proposed configuration will be little noticed and therefore poses no particular threat to the essential character of the locality.
5. The proposed accessory structure seems a reasonable use of the property when taking into account the configuration and size of the lot 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 accessory structure 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.
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 accessory structure.
8. There is no reason to conclude that water quality will be in any way affected by the size or location of the proposed accessory structure.
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 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 of the proposed structure shall not vary from that submitted 10/23/12.
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 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 11/13/14.

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.

Solem, Julie & Michael, Crooked Lake Township on property described as Lot 6, Block 15 & part of Lot 5, Block 15 "Tingdale Brothers Roosevelt Shores" PID #12-467-1510, Section 26-139-26 located at 6793 Cranberry Lane NE. An application submitted to demolish the current residence and replace with 27 feet x 46 feet new construction to be located from 8 feet to 10 feet from the top of a bluff. The application also requests placement of the septic system at 5

feet from the closest property. Section 1126.1 of the Land Use Ordinance (2010) requires structures to be 30 feet from the top of a bluff and for septic systems to be located 10 feet from a property boundary line. The property contains .37 acre riparian to Lawrence Lake (RD).

More than 50 notices of the application were mailed. No responses were received. The proposed variance was discussed and reviewed with the applicants.

MS/P Gardner/Kostial to approve the location of the residence at PID #12-467-1510 upon review of the criteria contained in 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 lot became of record in 1927 prior to the adoption land use regulation and bluff setback requirements.
2. The location for the proposed new residence is more than 100 feet from the lake.
3. There is no record in the permit archive for original construction which is located at less than the current required setback from the top of the bluff.
4. Although it appears that bluff setback could be complied with, the proposed location of the new SSTS is restricted due to the location of neighboring well which in turn limits bluff setback options.
5. The neighboring area consists of similar single family riparian lots with residences to which this proposed structure will be little different and therefore poses no particular threat to the essential character of the locality.
5. The proposed structure seems a reasonable use of the property when taking into account that it will be mostly unobservable from the lake along with the limit placed by SSTS location 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 structure 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.
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 structure.
8. There is no reason to conclude that water quality will be in any way affected by the size or location of the proposed structure.
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 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 of the proposed structure shall not vary from that submitted 10/18/12.
2. The proposed residence shall not exceed one story.
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 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.
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 11/13/14.

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.

Variance/Conditional Use Permit

Miracle Bible Camp/Northern Gospel Fellowship, Woodrow Township on property described as Gov Lot 9, NE SE & Part of SW SE, PID #51-001-3400, Section 1-140-29 located at 4389 Timber Drive NW. A master plan submitted for review and approval for camp improvements 2012 - 2018 including replacement and expansion of various structures in order to comply with ADA standards with setbacks to be determined as permits are applied for. The property contains 71.98 acres riparian to Woman Lake (GD).

47 notices of the application were mailed. Two responses, including that of Woodrow Township, recommending approval of the application were received. The application was discussed and reviewed with Mr. Payne.

MS/P Kostial/Bliss to table consideration of the application until the December meeting in order for a more detailed site plan for the first variance request to be submitted.

Conditional Use Permit

Minnesota Towers Holding LLC, Wabedo Township on property leased from John Welk described as W $\frac{1}{2}$ SE NE, PID #46-017-1402, Section 17-140-28 located along Pike Point Drive NE. An application submitted to construct 300 feet tower for cellular telephone communication which requires approval by conditional use permit (CUP). Section 705 of the Land Use Ordinance (2010) establishes CUP review criteria and process. Section 1127 of the Land Use Ordinance (2010) establishes the communication tower requirements. The property leased for the tower contains 80 acres non-shoreland.

Findings:

PC members were at the site 11/07/12. More than 75 notices of the application were mailed. One response recommending denial of the application along with three responses, including that of Wabedo Township, recommending approval were received. The proposed tower was discussed and reviewed with Mr. Adams of Minnesota Towers Holding LLC.

MS/P Ballenthin/Kostial to approve the location and construction of the communication tower on property to be contained within W $\frac{1}{2}$ SE NE upon review of the criteria contained in Sections 705 and 1127 of the Land Use Ordinance (2010) with the following findings and conditions.

Findings:

1. The Comprehensive Plan recognizes the benefits of wireless communication to the residents of the County.
2. The Comprehensive Plan calls for the reasonable placement of communication towers to adequately service a geographic area.
3. There are no towers within the proposed service area where equipment could be located.
4. No wetland or critical habitat will be disturbed or harmed by the location of the tower.
5. No scenic or historic features will be disturbed or harmed by the location of the tower.
6. The tower will have no adverse material effect to public health, safety or welfare.
7. The tower will not change or impact land use in the area.
8. Existing access to the property will be utilized and require no additional public infrastructure.
9. The project does not reach mandatory EAW threshold.

Condition:

1. The applicants must comply with all applicable FAA and FCC requirements.
2. Approval expires 11/13/14.
3. The tower must be available to other service providers at competitive rates.
4. The roadway conditions proposed by Wabedo Township are hereby adopted and shall be complied with prior to the issuance of the land use permit for the tower construction.

Sah-Kay-Tah Properties LLC, Pike Bay Township on property described as Lots 4 - 8, Block F, PID # 29-364-0640, Lot3, Block F, PID #29-364-0630 & Lot 2, Block F, PID #29-364-0620 all Section 10-145-31, "Supplemental Plat of Bug-e-z-o-we-ning Beach" located at 16323 60th Ave NW. An application submitted to re-classify the combined lots from Shoreland Residential (SR) to Water Oriented Commercial (WOC) which requires approval by conditional use permit (CUP). Section 705 of the Land Use Ordinance establishes CUP review criteria and process. Section 901 of the Land Use Ordinance establishes the various land use zone classifications. The combine lots contain .84 acres non-riparian to Cass Lake (GD).

PC members were at the site 11/07/12. 15 notices of the application were mailed. No responses were received. The proposed reclassification was discussed and reviewed with the resort owners.

MS/P Moore/Fitch to approve the reclassification of .84 acre in the configuration as submitted located in "Supplemental Plat of Bug-e-z-o-we-ning Beach" upon review of Sections 705, 901 and 1113 of the Land Use Ordinance (2010) with the following findings and conditions.

Findings:

1. The property is adjacent to the resort and will be utilized for resort activity.
2. The application complies with the intent of the Water Oriented Commercial (WOC) classification which is to accommodate commercial uses in the shoreland zone where access to and use of a surface water feature is an integral part of the business.

3. The area proposed for reclassification represents an insignificant percentage of the total acreage of the township.
4. There is no reason to expect that additional WOC will cause adverse effects to adjoining property.
5. The property to be reclassified 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 area to be reclassified does not reach the mandatory EAW threshold.
11. There is no reason to expect that the additional non-riparian WOC will have any effect to surface water or ground water quality.

Condition:

1. Approval expires 11/13/14.

Witt, Gregory, Wilson Township on property described as SE SE, PID #50-020-4400, Section 20-137-29 located at 1608 40th Street SW. An application submitted to re-classify 10 acres of the total parcel from Agriculture/Forestry (AF) to Rural Residential - 10 (RR-10) which requires approval by conditional use permit (CUP). Section 705 of the Land Use Ordinance establishes CUP review criteria and process. Section 901 of the Land Use Ordinance establishes the various land use zone classifications. The property contains 40 acres.

More than 25 notices of the application were mailed. No responses were received. The proposed reclassification was discussed and reviewed with Mr. Witt.

MS/P Fitch/Kostial 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 area to be reclassified includes 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.
13. There are numerous lots of 10 acres or less within the immediate area.

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 11/13/14.

Wood, Russell, Shingobee Township on property owned by Deanna & Kory Nelson described as Part of SE NW, PID #38-128-2409 & Part of SE NW, PID #38-128-2405, both in Section 28-142-31 located at along CSAH #12. An application submitted to construct four duplex residences which requires approval by conditional use permit (CUP). Section 705 of the Land Use Ordinance establishes CUP review criteria and process. Section 1121 of the Land Use Ordinance establishes multi-family criteria. The property contains 7.62 acres.

More than 75 notices of the application were mailed. Two responses, one of support and one of objection, were received. In addition several people appeared to voice their objection to the proposal. The proposed development was discussed and reviewed with Mr. Wood and Mr. Freeman.

MS/P Fitch/Bliss to table consideration of the application until it is submitted as a conservation design under the terms of Section 1116 of the Land Use Ordinance (2010).

Other Business

Knife River Materials, Powers Township on property owned by Gregory Anderson described as NE SE, PID #34-006-4100, Section 6-139-30. Request received for the Planning Commission to consider for approval the reclamation plan implemented for the gravel operations conducted this summer as required by the revisions to CU02-139-30-1 approved by the Planning Commission 03/12/12.

MS/P Fitch/Bliss to approve the reclamation plan as submitted with the exception that the area disturbed by Knife River Materials be re-seeded no later than 05/15/13 with a variety and rate as designated by ESD.

Palkovich, Barb & Jeff, Crooked Lake Township on property described as 465.2' x 166.7' x 60.2' x 301' Gov Lot 5, Section 26-139-26, PID # 12-026-2301 located at 629 Sunset Hill Road NE. Request received for the Planning Commission to consider a revised plan for the expansion of the existing non-conforming residence. The application consists of Phase 1, a 30 feet x 42 feet addition to be located 30 feet from the top of a bluff and Phase 2 consisting of replacement of the existing residence with two story construction and 4 feet x 24 feet and 18 feet x 18 feet additions. The initial application which was denied 10/08/12 called for Phase 1 to be located 24 feet from the top of a bluff. The residence is non-conforming because it is located less than 30 feet from the top of a bluff. Section 1126.1 of the Land Use Ordinance (2010) requires structures to be 30 feet from the top or toe of a bluff. In addition, Section 1115.3 requires a variance for any expansion of a non-conforming structure. The property contains 1.9 acres riparian to Lake Roosevelt (GD).

MS/P Ballenthin/Moore not to reconsider.

MS/P Fitch/Moore at 3:48 pm, to adjourn.

P. Fairbanks