



Cass County
Planning Commission/Board of Adjustment

December 10, 2012

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting December 10, 2012 in the meeting room of the Cass County Land Department in Backus. The field inspection was conducted December 3, 2012 with Fitch, Gardner, Kostial Moore and Sundberg present.

Sundberg called the meeting to order at 9:30 a.m.

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

Staff Present: Berg, Fairbanks and Ringle.

Citizens Present: Joe Klein, Meri Lysne, Doug Payne, Jeff Peterson, Pat Trottier, Karen Ward, Guy Wikman, Cindy Wieland and Norm Wieland.

MS/P Fitch/Ballenthin to approve the minutes of the 11/13/12 PC/BOA meeting as presented.

Variance

Braun, Michael & Susan, Powers Township on property as described as Lot 4 "Engers Birchwood", PID #34-373-0040, Section 10-139-30 located at 1783 Lumberjack Trail NW. An application submitted to construct a 28 feet x 32 feet detached accessory structure/garage to be located two feet from the closest property boundary line and less than 10 feet from the right-of-way the township maintained road. In addition, the new construction of 896 square feet when added to 624 square feet of existing detached accessory structure will bring the total accessory square footage to 1,520 square feet which will exceed the total allowed based upon lot size. Section 1126.1 of the Land Use Ordinance (2010) requires structures to be 10 feet from a property boundary line and 20 feet from the right-of-way of a township road. Section 1101 of the Land Use Ordinance allows for not more than 1,200 square feet of detached accessory upon riparian lots that contain from .5 - .99 acre. The property contains .68 acre riparian to Oxyoke Lake (RD).

PC members were at the site 12/03/12. 32 notices of the application were mailed. Two responses including that of the adjacent neighbor with the property boundary line in question along with Powers Township offering no objection to approval application were received. The

variance request was reviewed with Sue and Mike Braun with discussion centering upon alternative for the location for the proposed structure possible reduction in size.

MS/P Moore/Kostial to table consideration of the application until the January meeting in order for the applicants to consideration location and size options for the proposed accessory structure..

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).

PC members were at the site 11/07/12. 34 notices of the application were mailed. One response recommending approval of the application was received. The variance request was reviewed with Mr. Klein and contractor Paul Koshiol who assured the members of the structural integrity of the existing residence and that it can support and second level.

MS/P Kostial/Ballenthin to approve the application to expand the non-conforming residence located at PID #36-397-0070 upon review of the criteria contained in Section 800 of the Land Use Ordinance (01/10/10) and in M.S. 394.27, Subdivision 7 with the following findings:

Findings:

1. The property was platted in 1956 with current setback measured at 70 feet by staff which could be assumed that original construction approved at 75 feet.
2. The existing encroachment to the lake setback is very modest, 5 feet or 7%.
3. The proposed expansion would not repress a further encroachment into the lake setback area.
4. The proposed second story would result in little or no additional; impervious coverage.
5. Options for non-lakeside expansion are limited due to the location of the garage.
6. The neighboring area consists of similar single family riparian lots to which this proposed expansion will be not be out of the ordinary and therefore does not pose any particular threat to the essential character of the locality.
7. The proposed expansion seems a reasonable use of the property when taking into account the location of the residence 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.
8. The proposed expansion could be modified to reduce scale to be less obtrusive to neighboring property which would not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the

conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.

9. Area land use is similar in nature and there is no reason to expect that land use will be negatively affected upon modification of the proposed expansion.

10. There is no reason to conclude or expect that water quality will be in any way affected by the size or location of the proposed 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 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 height to peak of the proposed expansion shall not vary from that submitted 10/11/12.
2. The applicant must provide to ESD prior to permit authorization that the structure is structurally capable of carrying a second 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 12/10/14.

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.

Lenz, Allen & Pam, Powers Township on property as described as Lot 3, Block 1, "Big Portage Point", PID #34-390-0130, Section 13-139-30 located at 1391 26th Ave NW. An application submitted to expand a non-conforming structure with a 34 feet x 42 non-lakeside addition. The residence is non-conforming because it is located 65 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). In addition, Section 1115.3 requires a variance for any expansion of a non-conforming structure. The property contains .59 acre riparian to Big Portage Lake (GD).

PC members were at the site 12/03/12. 30 notices of the application were mailed. One response requesting additional information was received. The variance request was discussed and reviewed with Mr. Lenz.

MS/P Moore/Gardner to approve the expansion of the non-conforming residence located at PID #34-390-0130 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 as to the date of construction of the existing residence that is less than 75 feet from the lake and therefore deemed non-conforming.
2. The expansion will be non-lakeside and mostly unobservable from the lake.
3. The proposed new construction will meet all requirements for GD lake.
4. Approval will result in the removable of an existing storage structure as volunteered by the applicants.
5. The neighboring area consists of similar single family riparian lots with residences to which the expansion will not be noticed and poses no threat to the essential character of the locality.
6. Based upon the location of the proposed expansion it seems not to be significant when considering that it is mostly unobservable from the lake and not out of scale with neighboring residences 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 residence as expanded will not be 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 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 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 height to peak of the proposed expansion shall not vary from that submitted 11/14/12.
2. 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".
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 12/10/14.
9. The storage structure may remain until the conclusion of construction.

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.

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 and MN DOH standards. The proposed structure and expansion vary from 175 feet to 900 feet from the open surface water of Woman Lake. The property contains 71.98 acres riparian to Woman Lake (GD).

Specific to this application for 2013 are:

- * Revise CU97-140-29-7.
- * Building #5, Dining Hall - 160 square feet addition in order to comply with ADA accessibility standards which will be 42 feet from the OHWL.
- * Building #8, Cedar cabin - 1,296 square feet in order to comply with ADA/MN DOH standards which will be 23 feet from the OHWL.
- * Building #10, vault outhouse - 132 square feet to be located 23 feet from the OHWL.
- * Building #15, camping cabin - replace two 120 square feet camping cabins with two 620 square feet camping cabin which be 25 feet and 31 feet from the OHWL.
- * Building #16 vault outhouse - 60 square feet to be located 40 feet from the OHWL.
- * Building #12, activity village - 594 square feet ranger station to be located 33 feet from the OHWL, 240 square feet greenhouse to be located 33 feet from the OHWL, and a 132 square feet vault outhouse 22 feet from the OHWL.

PC members were at the site 11/07/12. 47 notices of the application were mailed. Three responses, including that of Woodrow Township, recommending approval of the application were received. In addition, one response objecting to approval was received. The proposed structure sizes and locations were discussed and reviewed with Mr. Payne.

MS/P Kostial/Gardner to approve the application for structure and expansion as submitted for Miracle Bible Camp located at PID #51-001-3400 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. Approval will not cause adverse effects to adjoining property.
2. Approval will have no impact to the demand for governmental services.
3. Existing roadways will be utilized with no need to expand exiting public infrastructure.
4. No wetland or critical habitat will be disturbed.
5. No scenic or historic features will be affected.
6. No threat to public health, safety and welfare can be expected.
7. The property became of record in 1966 with construction of camp structures prior to consideration of OHWL setback requirements.
8. The property although containing more than 70 acres is physically unique in configuration and the location of large wetland areas which are deemed contiguous to Woman Lake therefore subject GD lake setback requirements.
9. There is no record in the permit archive for original construction of many of the structures and most could be replaced at current setback due to their non-conforming status.
10. The neighboring area consists of single family riparian lots with residences to which the proposed development plan configuration will not be observable therefore poses no particular threat to the essential character of the locality.
11. The proposed development plan configuration seems a reasonable use of the property when taking into account that it will be mostly unobservable from adjoining property and the main 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.
12. The proposed development plan 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.
13. There is no reason to conclude that water quality will be in any way affected by the proposed development plan.
14. There is no reason to conclude that financial consideration is the sole reason for the application.

15. The proposed development plan will enable the camp structures to be brought into compliance with ADA and DOH standards.

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 structures shall not vary from that submitted 11/21/12.
2. Any debris resulting from construction not reused or recycled must be disposed of in a permitted facility.
3. The outhouses with vaults shall be regularly serviced and maintained by a licensed septic pumping service under contract with Miracle Bible Camp.
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 12/10/14.

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.

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.

Consideration of the application was tabled during the 11/13/12 meeting in order for ESD to verify 2010 permit issues and it has been determined that the structure in questions should refereed to as an accessory structure and was permitted in 2010 as a replacement as allowed by MS 394.36 and that the only issue required for resolution, if approved, is for a slight increase in structure height. PC members were at the site 11/07/12. 19 notices of the application were mailed for both meetings. 7 responses supporting approval were received. One response for each mailing was received from the Leech Lake Association recommending denial of the application. The proposed variance was reviewed with applicant's representative.

MS/P Kostial/Ballenthin to approve the application to allow the existing water oriented accessory structure to remain at its location upon 07-005-4202 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. ZP10-142-28-7 was approved under the terms of MS 394.36 to replace at footprint and volume.
2. ZP10-142-28-7 was approved not to exceed 22 feet x 22 feet.
3. ZP10-142-28-7 was approved for construction but not to be utilized for human habitation.
4. The structure approved by ZP10-142-28-7 is obviously an aesthetic improvement.
5. The neighboring area consists of similar single family riparian lots some with accessory structure to which it seems that the existing structure will not be particularly noticed and poses no threat to the essential character of the locality.
6. Based upon the location of the existing structure it seems not to be significant when considering that it is not particularly obtrusive to the lake and not out of scale with neighboring property 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 structure at 20 feet x 20 feet is less than that approved 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 water quality has been 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.
10. The difference in height from old to new is insignificant and most likely unnoticeable to the casual viewer.
11. The minor increase in volume associated with a somewhat greater height than approved be permit is largely offset by the smaller footprint than what actually approved by ZP10-142-28-7.

Conditions:

1. The structure shall not be utilized for human habitation.
2. Any other conditions or notices specified in the permit to reconstruct shall continue to apply.

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.

Schrantz, Anthony, Crooked Lake Township on property as described as Lot 12, Block 1, "Birch Bay on Washburn Lake", PID #12-438-0160, Section 17-139-26 located at 1375 Birch Bay Drive NE. An application submitted by Brett Karnowski whom as an agreement to purchase if approved, to expand two non-conforming structures one with a 10 feet x 22 feet addition and one with a 10 feet x 16 feet addition both to be non-lakeside. The structures are non-conforming because they are located 35 feet and 46 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). In addition, Section 1115.3 requires a variance for any expansion of a non-conforming structure. The property contains .6 acre riparian to Lake Washburn (GD).

More than 50 notices of the application were mailed. Three responses supporting approval and one response advocating denial were received. The proposed variance was discussed and reviewed with Mr. Karnowski and Ms. Lysne.

MS/P Moore/Ballenthin to deny the application to expand both non-conforming residential structures located upon PID #12-438-0160 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 permit has no record of the original construction of the two residences located on the property.
2. It is presumed that the two residences were part of a resort constructed prior to land use regulation in the county.
3. The property was platted in 1976 with Lot 12, Block 1 containing the two existing residences.
4. Both could be replaced or maintained per statute and ordinance.
5. The parcel does not comply with the minimum lot size for single family residential or for single family residential with a guest quarters.
6. The neighboring area consists of single family riparian lots with small residences and garages.
7. Because the lot contains two residences one must be considered primary and one as guest quarters for the purpose of expansion.
8. The proposed structure expansions do not seem reasonable when taking into account the configuration and size of the lot and contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
8. The proposed structure expansions when compared to the surrounding area along with the size of the lot seem to be excessive of scale and obtrusive to neighboring property which contradicts the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
9. Expansion of the existing non-conformity poses a clear and present danger to the peace and tranquility of the surrounding area which ultimately will negatively affect and alter land use.

Stokke, Lynn, Woodrow Township on property as described as Lot 4, Block 1 & $\frac{1}{4}$ Interest in Outlot A, "Westgate", PID #51-483-0108, Section 25-140-29 located at 3063 Westgate Drive NW. An application submitted to expand a non-conforming structure with several additions that total 570 square feet. In addition, the applicant request approval of the extension of the roof to cover the existing lakeside deck and to construct a dormer lakeside. The residence is non-conforming because it is located 76 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 .54 acre riparian to Blackwater Lake (RD).

PC members were at the site 12/03/12. 44 notices of the application were mailed. One response from Woodrow Township recommending approval except for the deck roof was received. The proposal was reviewed and discussed with applicants' representative/contractor Mr. Ward owner of north Ward Homes.

MS/P Fitch/Gardner to approve the application to expand the non-conforming residence located upon PID #51-483-0108 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 proposed additions to the footprint would be non-lakeside and to the north side of the residence no closer to the lake than the existing residence.
2. The proposed dormer would not increase the height of the residence and would be incorporated into the existing roofline.
3. The neighboring area consists of similar single family riparian lots with residences to which the proposed expansion will result in a structure similar and therefore poses no particular threat to the essential character of the locality.
4. The proposed expansion seems a reasonable use of the property when taking into account the configuration and location of the residence 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 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.
6. 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.
7. There is no reason to conclude that water quality will be in any way affected by the size or location of the proposed expansion.
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 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. Approval does not include extension of the roof to cover the existing lakeside deck.
2. The dimensions of the proposed expansion, except for the deleted roof extension, shall not vary from that submitted 11/14/12.
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 12/10/14.

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.

Final Plat

"Gull View", Fairview Township, on property described as Part of Gov Lots 1 & 2, Section 18-134-29, PID # 14-018-2203 located along CSAH # 77. The surveyor is Patrick Trottier, Stonemark Land Survey. The plat contains 11 residential lots and one common lot. The current number of lots and their configuration will not differ from their current configuration. The plat is only for the purpose to assign the individual lots with a legal description which will allow the individual lot owner's flexibility when considering financial options. The property contains 9.19 acres riparian to Gull Lake (GD). Article 7 of the Subdivision and

Platting Ordinance (2009) establishes final plat criteria. The preliminary plat was approved 05/14/12.

The preliminary plat was approved 05/14/12. More than 50 notices of the final plat were mailed with no responses received. The final plat was reviewed with Mr. Trottier/Stonemark Surveying and Mr. Forcella/Gull View Association.

MS/P Moore /Kostial to approve the final plat "Gull View" upon review with the criteria established by Article 7 of the Subdivision and Platting Ordinance (2009).

Findings:

1. The plat does not revise the existing configuration.
2. The plat revises current descriptions of the lots to legal descriptions.
3. The County Surveyor and ESD has reviewed and approved the plat for compliance with Article 7 of the Subdivision & Platting Ordinance (03/09/09).

Other Business

Kroehnert, Joan & Paul, Crooked Lake Township on property describes as Part of Gov Lot 5, PID #12-017-1301, Section 17-139-26. Request received for the Planning Commission to approve return of financial assurance for CU11-139-26-1 because the project is not contemplated to be initiated until new lot demand increases. CU11-139-26-1 was approved 02/1/11.

MS/P Gardner/Fitch to authorize return of the financial assurance submitted for CU11-139-26-1.

MS/P Ballenthin/Moore to acknowledge the Minnesota Court of Appeals decision as to the Tri - City gravel pit located in Turtle Lake Township and that the findings to approve are recorded as originally compiled with out any revision.

MS/P Gardner/Fitch at 12:31 pm, to adjourn.

P. Fairbanks