



Cass County  
Planning Commission/Board of Adjustment

December 9, 2013

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting December 9, 2013 in the meeting room of the Cass County Land Department in Backus. The field inspection was conducted December 2, 2013 with Anderson, Fitch, Froehlig, Moore and Sundberg present.

Sundberg called the meeting to order at 9:32 a.m.

Members present: Anderson, Fitch, Froehlig, LaPorte, Moore and Sundberg.

Staff Present: Berg and Fairbanks.

Citizens Present: Carol Christensen, Joe Christensen, Rollie Christensen, Dan Dean, Jerry Digiovanni, Terry Freeman, Daniel Holland, Dave Johnson, Jim Johnson, Stan Kumpula, Gloria Karsky MacFarlane, Jon Manthey, David Morris, Bob Nagel, Jeff Peterson, Mike Prosocki, Mike Schmitt, Steve Schoen, Michael Small, Verdale Soukup, Tony South, Cindy Wieland, Norm Wieland, Bob Wick and Eli Zenner.

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

Variance

Birch Villa Resort, Pike Bay Township on property described as S 30 Feet of Lot 1, Part of Lots 3 & 4, All of Lots 5, 6, & 7, Block A & vacated parking Ground & Part of Vacated Lake St, PID #29-364-0120, Lots 3 Thru 5, Block B, PID #29-364-0220, Lots 1, 2, 15, & 16, Block B, PID #29-364-0210, Lots 12 Thru 14, Block B, PID 29-364-0240 & Lots 1 Thru 4, Block C, PID #29-364-0310, "Supplemental Plat of Bug E Zo We Ning", Section 10-145-31, located at 16364 60<sup>th</sup> Ave NW. An application submitted to be allowed to retain an existing 0 feet setback for a structure from the platted/township road right-of-way of Pike Street. Section 1126.1 B. of the Land Use Ordinance (02/15/13) requires structures to be at least 20 feet from the right-of-way of a township/platted roadway. The property contains 5.5 acres riparian to Cass Lake (GD).

PC members were at the site 12/02/13. 25 notices of the application were mailed. No responses were received from any persons or governmental entities notified of the application. The application was discussed and reviewed with the applicant Mr. South.

MS/P Fitch/Froehlig to approve the application as submitted for the structure to remain at the current zero feet setback from the right-of-way of the platted roadway dedicated as Pike Street based upon review of the criteria contained in Section 800 of the Land Use Ordinance (02/15/13) and in M.S. 394.27, Subdivision 7 with the following findings and condition:

Findings:

1. Pike Street was dedicated as public right-of-way with the plat of "Supplemental Plat of Bug E Zo We Ning" in 1928.
2. Pike Street currently terminates 400 feet from its junction with 60<sup>th</sup> Ave NW.
3. Pike Street currently does not have thru traffic.
4. Pike Street is maintained by Pike Bay Township.
5. The proposed setback seems not to be unreasonable when taking into account the length of Pike Street and that it does not allow for thru traffic which therefore 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. Due to the length and dead end configuration of Pike Street the proposed right-of-way setback will not be excessive or obtrusive to neighboring property which therefore 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. Based upon the length and configuration of Pike Street there is no reason to conclude that area land use will be negatively affected or altered by the proposed setback.
8. There is no reason to conclude that water quality will be in any way affected by the proposed setback.
9. No responses or objections have been received from any persons or governmental entities notified of the application.
10. There is no reason or evidence 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 current configuration of the portion the structure abutting the right-of-way of Pike Street shall not be altered.

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.

Hofstedt, R. Scott, Wabedo Township on property described as S 125 Feet of N 525 Feet of Gov Lot 4, Section 8-140-28, PID #46-008-4404 located at 674 Minnow Lane NE. An application submitted to expand the existing non-conforming residence with a 24 feet x 30 feet attached garage addition and a 15 feet x 21 feet addition. The residence is non-conforming because it is located 46 feet from the lake at the closest point. Section 1126.1 B. requires structures to be at least 75 feet from the OHWL of a lake classified General Development (GD). In addition, Section 1115.3 B. of the Land Use Ordinance (02/15/13) requires a variance for the expansion of any non-conforming structure. The parcel contains 5 acres riparian to Woman Lake (GD).

34 notices of the application were mailed. No responses were received from any persons or governmental entities notified of the application.

MS/P LaPorte/Anderson to table consideration of the application until the 01/13/14 meeting in order for the PC members to visit the site.

Holland, Daniel, Shingobee Township on property owned by Carvin Buzzel and described as Part of Gov Lot 1, Section 2-141-31, PID #38-002-4110. An application submitted to construct a residence to be located 16 feet from the top of a bluff. Section 1126.1 B. of the Land Use Ordinance (02/15/13) requires structures to be located at least 30 feet from the top or toe of a bluff. The parcel contains 1.18 acres riparian to Leech Lake (GD).

PC members were at the site 12/02/13. 31 notices of the application were mailed. No responses were received from any persons or governmental entities notified. The variance request was reviewed with Mr. Holland.

MS/P Moore/Anderson to deny the application for closer bluff setback for the proposed to be located upon PID #38-002-4110 based upon review of the criteria contained in Section 800 of the Land Use Ordinance (02/15/13) and in M.S. 394.27, Subdivision 7 with the following findings:

Findings:

1. The lot was created in 2006 with the bluff demarcated on the survey drawing.
2. The existence of a bluff and the bluff setback requirements were available to surveyor and property owner.
3. According to the survey the distance from the bluff setback, 30 feet, to the setback from the proposed access road is approximately 110 feet which seems an ample area to locate a residence.
4. It seems that construction at standard setback will not impair lake view or access.
5. Practical difficulty as it relates to a variance is not established by this application, the topography above the bluff is relatively flat with no compelling factors to warrant closer bluff setback.

Manthey, Jon, Thunder Lake Township on property described as Lot 1, "Bar X Ranch", Section 8-140-26, PID #42-367-0010 located at 5476 Mister Twister Lane NE. An application submitted to be allowed to retain a mobile home on the property placed without permit on a lot that does not conform to the minimum standards for a guest quarters/secondary residence. The parcel contains 82,328 square feet total area with most of the lot deemed wetland. Section 1113.1 of the Land Use Ordinance (02/15/13) requires a riparian lot located on a General Development (GD) in order to have a guest quarters/secondary residence lot to contain at least 75,000 square feet total area, 27,000 square feet buildable area and be at least 180 feet wide at the water and at the structure setback of 75 feet. Buildable area cannot be bluff area, setback area, right-of-way or wetland area. Lot 1 of "Bar X" contains 82,000 square feet total area, exceeds 180 feet wide at the water and structure setback but is deficient in buildable area. The parcel contains 1.89 acres riparian to Thunder Lake (GD).

PC members were at the site 12/02/13. 30 notices of the application were mailed. Five responses from persons notified all objecting to approval of the application were received. No response from any governmental entity notified of the application was received. The application was discussed and reviewed with Mr. Manthey.

MS/P Moore/Anderson to deny the application to allow the mobile home to remain upon PID #42-367-0010 as guest quarters based upon review of the criteria contained in Section 800 of the Land Use Ordinance (02/15/13) and in M.S. 394.27, Subdivision 7 with the following findings:

Findings:

1. "Bar X Ranch" was created in 1961 prior to wetland regulations and requirements but time of platting does not provide for relief from current standards as to wetland impact.
2. The NWI reveals that the lot contains about 1,800 square feet not wetland which is about 2% of total lot size.
3. The mobile home in question is located on wetland.
4. Approval to allow mobile home as guest quarters does not imply or allow placement upon wetland therefore only location not wetland would be the driveway which would require the mobile home to be drive-thru.
5. No additional wetland fill can be approved or granted for this property by the Planning Commission.

Massey, Jon, & Schoen, Steve, Hiram Township on property described as Lot 5, Block 1, PID #16-432-0125, Lot 7, Block 1, PID #16-432-0135, Lot 9, Block 1, PID #16-432-0145 & Lot 10, Block 1, PID #16-432-0150, "Pine Way", Section 16-140-31 located at 6276 & 6264 Shorecrest Way NW. An application submitted to be allowed to create two riparian lots that will comply with the lot size criteria except for minimum lot width at the Ordinary High Water Level (OHWL) and at the structure setback of 75 feet. The two proposed lots each will measure 93 feet at the OHWL and at the setback. The variance if approved will allow for the reduction in the number of lots on the property from 10 to 2. The result will be two lots, one lot with residence and one lot with two residences Section 1113.1 of the Land Use Ordinance (02/15/13) requires a riparian lot located on a General Development (GD) to contain at least at least 37,500 square feet total area, 12,000 square feet buildable area and be at least 100 feet wide at the water and 100 feet wide at the structure setback. The parcel that will contain the two residences also requires relief from the guest quarter standards because the lot will exceed area and buildable standards but will fail to meet the width requirement of 180 feet at the OHWL and structure setback. In addition, the structure exceeds the guest quarters square feet maximum of 700. The property contains 8.82 acres riparian to Ten Mile Lake (GD).

PC members were at the site of the application 12/02/13. 54 notices of the application were mailed. Five responses from persons notified, all advocating approval of the application were received. No governmental entities replied to the notice. The variance request was reviewed with the applicant's representative Mr. Freeman.

MS/P Froehlig/Anderson to approve the lot configuration as submitted along with approval of two residential structures within one designated as guest quarters that exceed with the maximum square footage based upon review of the criteria contained in Section 800 of the Land Use Ordinance (02/15/13) and in M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. The plat of "Pine Way" approved 2006 per current, at that time, PUD standards which allowed for 9 residential lots.

2. The proposed lot consolidation seems prudent and reasonable use of the property when taking into account the potential reduction of residences that could occupy the property which therefore 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 lot consolidation will result in a reduction of potential issues of scale and obtrusiveness to neighboring property which therefore 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. Because the surrounding area contains structures similar in size and scale to the three currently occupying the property, there is no reason or evidence to conclude that area land use will be negatively affected or altered.
5. There is no reason to conclude that water quality will be in any way affected by the proposed lot consolidation.
6. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
7. The proposed lot that will contain two residences will exceed lot requirements except for lot width.
8. Although the proposed guest structure will exceed maximum square footage allowed, it is of recent construction, is not observable from the lake and would serve no purpose to be reduced in size.

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 lot configuration shall not vary from that submitted with the application 11/12/13.
2. No additional residential shall be permitted on either lot.
3. The underlying platted lots shall not be considered for residential development.

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.

McFarlane, Gloria, Sylvan Township on property described as Lot 11, Block 4 & Lots 19 & 20, Block 2, "Sylvan Shady Shores", Section 2-133-30, PID #41-562-0445 located at 12094 W Sylvan Drive SW. An application submitted to expand the existing non-conforming residence with a 6 feet x 11 feet addition non-lakeside and a 9 feet x 10 feet addition with a covered 6 feet x 9 feet deck located on the south side of the residence located more than 75 feet from the lake. The structure is non-conforming because it is located 50 feet from the lake at the closest point. In addition, the proposed 9 feet x 10 feet addition will be less than 10 feet from the closest property boundary line. Section 1126.1 A. of the Land Use Ordinance requires structures to be at least 75 feet from the OHWL of a lake classified General Development (GD), Section 1126. B of the Land Use Ordinance requires structure to be at least 10 feet from the closest property boundary line and Section 1115.3 B. of the Land Use Ordinance (02/15/13) requires a variance for the expansion of any non-conforming structure. The parcel contains .73 acre riparian to Sylvan Lake (GD).

PC and staff members were at the site of the application 12/05/13. 50 notices of the application were mailed. Two responses one from the adjacent owner to the north and from Sylvan Township both supporting approval of the application were received. The variance request was reviewed with Ms. MacFarlane.

MS/P Froehlig/Anderson to approve the application for expansion of the non-conforming residence located upon PID #41-562-0445 upon review of the criteria contained in Section 800 of the Land Use Ordinance (02/15/13) 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 when the original structure was constructed although it is apparent that it was prior to land use regulation by an owner other than the applicant.
2. The proposed residence expansion seems a reasonable use of the property when taking into account the configuration of the property along with the location of the residence which therefore does not necessarily 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 will not be excessive of scale or obtrusive to neighboring property which therefore 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. Because the surrounding area contains structures larger in size and scale, there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed expansion.

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

6. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

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

1. ESD required and approved erosion control is installed.
2. A written plan for suitable vegetation is approved by ESD and agreed to be implemented by applicant.
3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other conditions as set forth.

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

Conditions:

1. The dimensions and location of the expansions shall not vary from that submitted with the application 12/09/13.
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 material 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. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters from the residence to water retention structures such as rain gardens to retain 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. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 12/09/15.

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.

Rollins, Michael, Ponto Lake Township on property described as Lot 46, Block 1, "Smith Estates", Section 21-139-29, PID #32-427-0192 located at 910 Pondweed Trail NW. An application submitted to locate a residence 75 feet from the lake. Section 1126.1 A. of the Land Use Ordinance (02/15/13) requires structures to be located at least 100 feet from a lake classified Recreational Development (RD). The parcel contains 1.45 acres riparian to Lake Ada (RD).

Consideration of this application was tabled during the 11/12/13 meeting. PC members were at the site of the application 11/04/13 and 12/02/13. 41 notices of the application were mailed for both meetings. Two responses both objecting to approval of the application were received. No responses were received from a governmental entities notified of the application. The proposed variance was discussed and reviewed with the applicant Mr. Rollins.

MS/F Moore/Anderson - Anderson/Yes, Fitch/No, Froehlig/No, LaPorte/No, Moore/Yes, Sundberg/Yes - Motion Fail to deny the application.

MS/P Froehlig/Anderson to approve a setback of not less than 91 feet at the closest point from the OHWL for the residence to be located upon PID #32-427-0192 upon review of the criteria contained in Section 800 of the Land Use Ordinance (02/15/13) and in M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. Current lake setbacks for riparian lots in "Smith Estates" vary from 50 feet to 100 feet.
2. The proposed residence location seems reasonable use of the property when taking into account the topography and configuration of the property, the location of wetland area and the location of neighboring residences which therefore does not necessarily 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 residence will be similar of scale and size to other residence located in "Smith Estates" which therefore 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. Because the surrounding area contains residences similar in size and scale to the proposed residence, there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed expansion.

5. There is no reason to conclude that water quality will be in any way affected by the proposed residence.

6. There is no reason or evidence 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 residence shall not vary from that submitted with the application 10/23/13.

2. The residence, at the closest point, shall not be less than 91 feet from the OHWL.

3. The patio for the residence shall be constructed of pervious pavers and comply with all applicable size and location requirements.

4. Vegetation within the lake setback area must be restored per plan as approved by ESD.

5. Any material resulting from construction 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. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters from the residence to water retention structures such as rain gardens to retain and prevent run-off to the lake and adjoining properties.

8. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.

9. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 12/09/15.

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.

Schmitt, Michael, Woodrow Township on property described as Lots 62 Thru 68 & Northeasterly  $\frac{1}{2}$  of That Portion of Vacated James Street Lying between Baby Lake & Thomas Ave, "Interlachen Lodge", Section 8-140-29, PID #51-378-0621 located at 4154 Interlachen Drive NW. An application submitted to expand the existing non-conforming residence with a 21 feet x 30 feet attached garage, a 14 feet 28 feet living area addition and a 7 feet x 4 feet x 10 feet x 14 feet L shaped deck expansion. The structure is non-conforming because it is located 70 feet from the lake. Section 1126.1 B. requires structures to be at least 100 feet from the OHWL of a lake classified Recreational Development (RD). In addition, Section 1115.3 B. of the Land Use Ordinance (02/15/13) requires a variance for the expansion of any non-conforming structure. The parcel contains 3.07 acres riparian to Baby Lake (RD).

PC members were at the site 12/02/13. 54 notices of the application were mailed. Two responses including that of Woodrow Township both recommending denial of the application were received. The township recommendation hinges on the deck extension, they are not opposed to the expansion of the residence at the existing setback. The application was discussed and reviewed with Mr. Schmitt.

MS/P Moore/Fitch to approve the application to expand the residence located upon #51-378-0621 based upon review of the criteria contained in Sections 800 of the Land Use Ordinance (02/15/13) 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 when the residence was constructed less than 100 feet from the lake it is apparent that it was prior to the adoption of land use regulation by an owner other than the applicant
2. The proposed expansion of the non-conforming residence in line with or non-lakeside of the current encroachments seems a reasonable use of the property when taking into account the configuration of the property along with the location of the residence which therefore does not necessarily 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 in line with or non-lakeside of the current encroachments will not be excessive of scale or obtrusive to neighboring property which therefore 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. Because the surrounding area contains structures similar in size and scale, there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed expansion.

6. There is no reason to conclude that water quality will be in any way affected by the proposed expansion in line with or non-lakeside of the current encroachments.

7. There is no reason or evidence 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. Any expansion of the residential structure further into the setback is not allowed.
2. The dimensions and location of the side additions in line with or non-lakeside of the current encroachments shall not vary from that submitted with the application 11/18/13.
2. Approval does not include deck expansion which shall only be increased in size only as allowed per ordinance criteria.
3. 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".

4. Any material resulting from construction not reused or recycled must be disposed of in a permitted facility.
5. 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.
6. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters from the garage to water retention structures such as rain gardens to retain 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. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 12/09/15.

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.

Wick, Bob, Crooked Lake Township on property described as Lot 11, "Andresen Bay", Section 14-139-26, PID #12-422-0110 located at 6559 Andresen Bay Drive. An application submitted to replace and existing residence located 9 feet from the lake with new construction to be located 17 feet from the lake. Section 1126.1 A. of the Land Use Ordinance (02/15/13) requires structures to be located at least 75 feet from a lake classified General Development (GD). The parcel contains one acre riparian to Lake Roosevelt (GD).

Consideration of this application was tabled during the 11/12/13 meeting. PC members were at the site of the application 11/04/13 and 12/02/13. 44 notices of the application were mailed for the 11/12/13 and 12/09/13 meetings. Two responses one supporting and one objecting to approval of the application were received. No responses were received from governmental entities notified of the application. The variance request was discussed with the applicant Mr. Wick.

MS/P Fitch/LaPorte for closer lake setback for the residence to be constructed upon PID #12-422-01100 based upon review of the criteria contained in Sections 800 of the Land Use Ordinance (02/15/13) and in M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. The property became a lot of record in 1948 and the current structure was started prior to the current lake standards.
2. The property slopes steeply for a location from a point about 40 feet from the lake to Andresen Road.
3. The slope contains a running spring that along with the elevation severely limits placement options.

4. As allowed by MS 394.36, the residence could be replaced at current footprint and volume with permit.
- 5 The proposed replacement structure is reasonable when taking into account the topography of the lots, the spring within the slope and the condition of the existing residence which therefore 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 size of the proposed replacement structure will not be excessive or obtrusive to neighboring property which 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.
7. No responses or objection has been received from any governmental entity notified.
8. The proposed replacement structure is similar to other structures along Andresen Road to which there is no reason to conclude that area land use will be negatively affected or altered.
9. There is no reason to conclude based upon the size and location of the proposed replacement structure that water quality will be negatively affected.
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 and inspected by ESD.
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 structure shall not exceed from that submitted with the application 10/23/13.
2. The structure shall not be located less than 20 feet from the OHWL as verified by ESD.

3. Verification of the "as built" of the structure footings setback from the OHWL must be verified by ESD.
4. Any material/debris resulting from construction not reused or recycled must be disposed of in a permitted facility.
5. ESD shall determine the need for construction erosion control and the applicant shall install ESD approved and inspected erosion control placement prior to issuance the land use permit.
6. No run-off to the lake or adjoining properties is permitted. The approved structure as determined necessary by ESD shall redirect run-off by gutters to water retention structures such as rain gardens to retain and prevent structure 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. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 12/09/15.

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 Application

Brine, Kevin, Ponto Lake Township on property described as part of Gov Lot 8 Excluding the S 20 feet Thereof, Section 14-139-29, PID #32-014-3306 located at 1211 Blue Heron Drive NW. An application submitted to occupy and utilize the property, formerly a resort under the terms and conditions as a conservation design development for family purposes only and not available to the general public. Section 1116 of the Land Use Ordinance (02/15/13) establishes the conservation design criteria. Section 705 of the Land Use Ordinance (02/15/13) establishes CUP review criteria. The property contains 7.6 acres riparian to Hand Lake (RD).

PC members were at the site 12/02/13. 80 notices of the application were mailed. No responses were received from any persons or governmental entities notified of the application. The application was discussed and reviewed with applicant's representative Mr. Freeman.

MS/P LaPorte/Fitch to table consideration of the application until the 01/13/14 meeting.

Dean, Dan, Powers Township on property described as N 300 Feet of NE SW Less to State for Hwy, Section 8-139-30, PID #34-008-3102 located at 1775 State 371 NW. An application submitted to reclassify the parcel from Rural Residential 2.5 (RR-2.5) to Commercial 2 (C-2) in order to conduct commercial activity, small engine repair, both which requires a conditional use permit (CUP). Sections 903, 1000 and 1001 of the Land Use Ordinance (02/15/13) establish various land use categories and criteria. Section 705 of the Land Use Ordinance (02/15/13) establishes CUP review criteria. The property contains 8.6 non-riparian acres (SR).

PC members were at the site 12/02/13. 34 notices of the application were mailed. One response from MN DOT with their standard comments and one supporting approval were received. No response was received from any governmental entity notified. The application was discussed and reviewed with Mr. Dean.

MS/P Fitch/Anderson to approve the classification of PID #34-008-3102 to Commercial - 2 (C-2) upon review of the criteria contained in Sections 705 and 1110 of the Land Use Ordinance (02/15/13) with the following findings and condition:

Findings:

1. The applicant's commercial activity is already established and on-going with CUP to acknowledge and provide legal standing.
2. The parcel and the commercial activity have no particular characteristic that would lead to soil erosion or degradation of ground or surface water.
3. The site is not visible from any public water.
4. No wetland or critical habitat is affected.
3. No scenic or historic features are affected.
4. The current commercial activity has had no effect to the increased likelihood to harm public health, safety or the common good.
5. The commercial activity, which utilizes existing roads, does not increase the need or demand for governmental infrastructure or services.
6. No objections have been received from any persons or governmental entities notified of the application.
7. The proposed C-2 designation complies with the purpose established for the district by the ordinance. "The purpose of this district is to provide adequate space areas for general retail, and service activities as conditional uses in rural areas. C-2 commercial districts shall be located along federal, state, county or township roads and shall include all of parcel so designated".
8. The property abuts MN #371.
9. There is existing commercial activity is located within close proximity of the location of the application.
10. The site is not visible from any public water.

Condition:

1. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 12/09/15.

Zenner, Eli, Wabedo Township on property described as Part of SE SW, Section 19-140-28, PID #46-019-3402 located at 3179 State 84 NE. An application submitted to reclassify the parcel from Shoreland (SR) to Commercial 1 (C-1) which requires a conditional use permit (CUP). Sections 903, 1000 and 1001 of the Land Use Ordinance (02/15/13) establish various land use



categories and criteria. Section 705 of the Land Use Ordinance (02/15/13) establishes CUP review criteria. The property contains 7.5 non-riparian acres (SR).

PC members were at the site 11/04/13. 34 notices of the application were mailed. One response from MN DOT was received. No other responses were received from any persons or governmental entities notified of the application. The application was discussed and reviewed with Mr. Smith.

MS/P Moore/LaPorte to approve the application for reclassification to C-2 and for the CUP for commercial land use for PID #34-017-2104 upon review of the criteria contained in Sections 705, 1000 and 1101 of the Land Use Ordinance (02/15/13) with the following findings and conditions:

Findings:

1. The proposed C-2 designation complies with the purpose established for the district, "The purpose of this district is to provide adequate space areas for general retail, and service activities as conditional uses in rural areas. C-2 commercial districts shall be located along federal, state, county or township roads and shall include all of parcel so designated".
2. The property abuts MN #84, .4 of a mile north of its junction with CSAH #11 which is designated C-2
3. There is no reason to expect that the reclassified parcel will cause adverse effects to adjoining property.
4. The reclassified parcel will utilize existing roadways with no need to expand exiting public infrastructure.
5. No wetland or critical habitat will be disturbed.
6. No scenic or historic features will be affected.
7. No threat to public health, safety and welfare can be expected from the commercial activity.
8. Commercial activity has no particular characteristic that would lead to soil erosion or degradation of ground or surface water.
9. The site is not visible from any public water.

Conditions:

1. Approval shall include the establishment of a vehicle broker/sales commercial land use.
2. No more than 20 vehicle units may be displayed outdoors at any one time.
3. Additional commercial use must have prior review by ESD to determine necessity of additional CUP review.

Variance

Prososki, Michael, Ponto Lake Township on property described as Lot 18, Block 1, "Smith Estates", Section 21-139-29, PID #32-427-0136 located at 916 State 84 NW. An application

submitted to locate a residence 70 feet from the lake. Section 1126.1 A. of the Land Use Ordinance (02/15/13) requires structures to be located at least 100 feet from a lake classified Recreational Development (RD). The parcel contains 1.48 acres riparian to Lake Ada (RD).

Consideration of this application was tabled during the 11/12/13 meeting. PC members were at the site 11/04/13 and 12/02/13. 50 notices of the application were mailed. 12 responses, 9 of support and 3 opposed to application, were received from persons notified of the application. No governmental entity responses were received. The variance request was reviewed with Mr. Prososki and his legal counsel Mr. Christensen. Discussion included permit, variance and Planning Commission actions in the past as they relate to the plat of "Smith Estates", lake setback history and previous and current development along Lake Ada.

MS/F Moore/Anderson - Anderson/Yes, Fitch/No, Froehlig/No, LaPorte/No, Moore/Yes, Sundberg/Yes - Motion Fail to deny the application.

M Moore - Motion Fail Lack of Second to approve setback of not less than 85 feet at the closest point from the OHWL.

MS/P Fitch/LaPorte to approve setback of not less than 75 feet from the OHWL for the residence to be located upon PID #32-427-0136 upon review of the criteria contained in Section 800 of the Land Use Ordinance (02/15/13) and in M.S. 394.27, Subdivision 7 with the following findings:

Findings:

1. Current lake setbacks for riparian lots in "Smith Estates" vary from 50 feet to 100 feet.
2. The proposed residence location seems reasonable use of the property when taking into account the topography and configuration of the property, the location of wetland area and the location of neighboring residences which therefore does not necessarily 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 residence will be similar of scale and size to other residence located in "Smith Estates" which therefore 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. Because the surrounding area contains residences similar in size and scale to the proposed residence, there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed expansion.
5. There is no reason to conclude that water quality will be in any way affected by the proposed residence.

6. There is no reason or evidence 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 residence shall not vary from that submitted with the application 10/23/13.
2. The residence, at the closest point, shall not be less than 75 feet from the OHWL.
3. The patio for the residence shall be constructed of pervious pavers and comply with all applicable size and location requirements.
4. Vegetation within the lake setback area must be restored per plan as approved by ESD.
5. Any material resulting from construction 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. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters from the residence to water retention structures such as rain gardens to retain and prevent run-off to the lake and adjoining properties.
8. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
9. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 12/09/15.

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,  
REVOCAION OF THIS VARIANCE, REMOVAL OF VIOLATIONS AND MITIGATION.

MS/P Fitch/Froehlig at 3:18 pm, to adjourn.

P. Fairbanks