



Cass County  
Planning Commission/Board of Adjustment

July 21, 2014

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting July 21, 2014 in the meeting room of the Cass County Land Department in Backus. The field inspection for the meeting was conducted July 14, 2014 with PC members Anderson, Fitch, Froehlig, Kostial, LaPorte, Moore and Sundberg along with ESD staff Berg and Fairbanks in attendance.

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

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

Staff Present: Berg, Fairbanks, and Ringle.

Citizens Present: Muriel Backman, Tom Bogee, Mark Bovee, Rita Bovee, Al Chacey, Bill Cinders, Holly Cinders, Tom Cox, Alyssa Dyburg, Ken Estvold, Sue Estvold, Charlotte Francen, Russ Francen, Terry Freeman, Craig Gilbertson, Gary Haglund, Donna Hartzell, Loren Henke, Roxy Henke, Paul Jaeger, Jeff Johnson, Jim Johnson, Lynn Johnson, Michelle Johnson, George Kight, Anita Linberger, Allan Linberger, Tennis Loverlink, Tom Lund, Dale Magnuson, Marlene Magnuson, Emily Martin, John Martin, Jeff Peterson, Kevin Larson, Wally Olson, Paul Ottoson, Ron Quanbeck, Stephen Rose, Erland Shelly, Criag Seibert, Ted Thorson, Jim Tuller, Mary Ann Varela, Paul Varela, Forrest Watson, and Norm Wieland.

MS/P Moore/Kostial to approve the minutes of the 06/09/14 PC/BOA meeting as presented.

Variance

Boege, Thomas, Turtle Lake Township on property described as Part of SE SE, Section 2-141-30, PID #45-002-4400 located at 2838 State 200 NW. An application submitted to be allowed to construct an addition to an existing structure that will be located two feet from an existing in-ground septic tank. Such separation is regulated by Minnesota Rule (MR) 7080.0170 which requires minimum separation distance of 10 feet. In addition Section 800 of the Land Use Ordinance (02/15/13) establishes the variance review criteria. The parcel contains 21.51 acres non- riparian (RR-2.5).

10 notices of the application were mailed. One response from MN DOT offering no objection to the application was received. The application was discussed and reviewed with Mr. Boege.

MS/P Kostial/Fitch to approve the application for a two feet separation distance from the occupied residence to the septic for PID #45-002-4400 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 foundation of the proposed addition will not affect the structural integrity of the tank or the ability to access it for maintenance purposes.
2. The expansion will not be visible to any neighbor or TH #200 therefore there will be no detrimental visual impact to the surrounding area.
3. The proposed expansion seems a reasonable use of the property when taking into account the configuration of the property, the size of the lot 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.
4. 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.
5. Because the proposed expansion will not be visible to neighboring property, 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.
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:

1. ESD required and approved erosion control is installed.
2. If shoreline vegetative enhancement or restoration is required by ESD or the Planning Commission, a written plan for suitable vegetation shall be 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 a land use permit. Commencement of either prior to issuance of a land use permit may result in withholding, withdrawal or revocation 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/Approve:

1. Run-off from the structure must be directed away from the area where the tank is located.
2. The dimensions and configuration of the expansion shall not vary from that submitted 06/25/14.
3. Any material resulting from construction or demolition 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 no later than a date determined by ESD.
5. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
6. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 07/21/16.

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.

Bovee, Rita & Mark, Shingobee Township on property described as part of Gov Lots 4 & 5, Section 27-142-31, PID #38-127-2404 located at 5856 Lake May Drive NW. An application submitted to expand a non-conforming accessory/garage structure with a 10 feet x 24 feet addition. The accessory/garage structure is non-conforming because it is located less than 10 feet from the closest property boundary line. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1126.1 B. which requires structures to be at least 10 feet from the closest property boundary a lake classified General Development (GD), Section 1115.3 which establishes the non-conforming structure expansion criteria and Section 800 which establishes variance review criteria. The parcel contains 6.1 acres riparian to Lake May (RD).

44 notices of the application were mailed with no responses received. The application was discussed and reviewed with Mr. and Mrs. Bovee.

MS/P Kostial/Froehlig to approve the application to expand the existing non-conforming accessory structure/garage quarters structure upon PID #38-127-2404 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 property became a lot of record in 1963 prior to the adoption of land use regulation.
2. The permit archive contains no record of the accessory structure/garage construction.
3. The accessory structure/garage to be expanded is not visible from Lake May and there is no information or indication that a small expansion of the garage will have any perceptible detrimental visual impact to the lake or neighboring property.
4. The proposed inconsequential expansion of the accessory structure/garage seems a reasonable use of the property when taking into account the structure size and location 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.
5. The proposed expanded accessory structure/garage configuration, location and size will not be 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.
6. 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 lot configuration.
7. There is no indication or reason to conclude that water quality will be in any way affected by the proposed use.
8. 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:

1. ESD required and approved erosion control is installed.
2. If shoreline vegetative enhancement or restoration is required by ESD or the Planning Commission, a written plan for suitable vegetation shall be 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, location and configuration the expanded accessory structure/garage shall not vary from that submitted 06/24/14.
2. The addition shall not be at any point less than 2.8 feet from the property boundary line.
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 or demolition 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 or other means to natural water retention features located upon the property or structures such as rain gardens.
7. It is recommended but not required that the applicant obtain and record an easement from the adjacent property owner in order to access the structure for maintenance purposes.
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 07/21/16.

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.

Estvold, Kendal & Susan, Crooked Lake Township on property described as Part of Gov Lot 3, Tract B, Section 8-139-26, PID #12-008-2311 located at 1862 Coontail Drive NE. An application submitted to expand an existing non-conforming residence with several additions totaling 2,116 square feet. The existing residence is located 55 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1126.1 A. which requires structures to be at least 75 feet from a lake classified General Development (GD), Section 1115.3 which establishes the non-conforming structure expansion criteria and Section 800 which establishes variance review criteria. The parcel contains 1.99 acres riparian to Lake Washburn (GD).

32 notices of the application were mailed with no responses received. The application was discussed and reviewed with Mr. and Mrs. Estvold.

MS/P Moore/Kostial to approve the application as submitted for the residence to be located upon PID #12-008-2311 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 proposed residence will comply with the GD lake setback requirement.
2. The actual OHWM determined for the property lies inland from open water and is closer than it appears.
3. The existing accessory structure/garage which contains living quarters was constructed with approved ZP96-139-26-47 which also indicated a primary residence to be constructed at some time in the future.
4. There is nothing to indicate that the location of the residence will have any visual impact to the surrounding area.
5. The proposed residence seems a reasonable use of the property when taking into account the OHWM, the configuration, size of the property along with the proposed 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.
6. The proposed residence 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.
7. 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.
8. 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:

1. ESD required and approved erosion control is installed.
2. If shoreline vegetative enhancement or restoration is required by ESD or the Planning Commission, a written plan for suitable vegetation shall be 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, configuration and location of the residence shall not vary from that submitted 06/24/14.
2. Any material 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 determine the need for shoreline vegetative enhancement/restoration to depth from the water as determined by ESD and if required applicant shall provide a plant type and implementation plan to be approved by ESD.
5. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
6. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
7. Upon completion of construction an "as built" to scale site plan must be submitted to ESD in order to verify the location and construction configuration of the residence.
8. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 07/21/16.

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.

Henke, Loren, Shingobee Township on property described as Lot 2, Block 1, "Journey's End", Section 1-141-31, PID #38-337-0130 located at 7079 Heath Trail NW. An application submitted to replace a non-conforming residence with a larger residence at the same setback of 49 feet from deck to lake. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1126.1 A. which requires structures to be at least 75 feet from a lake classified General Development (GD), Section 1115.3 which establishes the non-conforming structure expansion criteria and Section 800 which establishes variance review criteria. The parcel contains .67 acre riparian to Leech Lake (GD).

42 notices of the application were mailed. One response supporting approval of the application was received. The proposal was discussed and reviewed with the applicants along with their architect Mr. Rose.

MS/Denied Froehlig/LaPorte to approve the application for residence replacement/expansion at 49 feet/deck and 61 feet/residence upon PID #38-337-0130 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.

1<sup>ST</sup> Reading Proposed Amendments to the Land Use Ordinance

**1) Permitting additions to non-conforming structures when the addition meets all setbacks.**

**1115.3 Non-Conforming Structures**

A. Maintenance and replacement. Existing non-conforming structures may be replaced pursuant to the most current version of M.S. Chapter 394.36.

B. Additions or expansion to an existing non-conforming structure where the addition or expansion meets all setback requirements may be permitted.

B. C. Other Additions/Expansions. All other expansions that add area or volume to a non-conforming structure shall require a variance. These shall include any additions of living areas, storage spaces, and walkout basements, except for construction or replacement of non-walkout basements, crawl spaces, or permanent support footings. All additions or expansions to the outside dimensions of an existing nonconforming primary residential structure shall meet the following criteria:

1. PC/BOA may require an inspection by a licensed building inspector to verify the structural integrity of the non-conforming structure before granting a variance to expand.
2. In the shoreland zone, shoreland buffers as prescribed in Section 1123 shall be implemented and permanently maintained.
3. Walk out basement additions to nonconforming structures shall require a variance.
4. No expansions of nonconforming guest quarters are allowed.

MS/P LaPorte/Kostial to recommend approval and adoption by the County Board at 2<sup>nd</sup> Reading.

**2. Allow small animals (chickens/rabbits), which may or may not be commonly kept as pets, on a riparian parcels with controls.**

**1102.3 Animal Density Regulations**

A. ~~On riparian parcels in the shoreland zone, only d~~ Domestic animals commonly kept as pets are ~~permitted~~ allowed on all parcels.



B. No more than 0.25 animal units of farm animals shall be allowed on parcels of less than 2 acres of land.

~~B. On non-riparian parcels in the shoreland zone of less than 2 (two) acres only domestic animals, commonly kept as pets are permitted.~~

C. On non-riparian parcels in the shoreland zone, or parcels in the non shoreland zone of at least 2 (two) acres but less than 3 (three) acres 1 (one) animal unit of farm animals are permitted.

D. On non-riparian parcels in the shoreland zone ~~or parcels in the non shoreland zone~~ of at least 3 (three) acres, 1 (one) animal unit of farm animals may be permitted for the first 3 (three) acres and 1 (one) additional animal unit may be permitted for each additional 2 (two) acres to a maximum of 6 (six) animal units.

E. On parcels in the non-shoreland zone of at least 3 (three) acres, 1 (one) animal unit of farm animals may be permitted for the first 3 (three) acres and 1 (one) additional animal unit may be permitted for each additional 2 (two) acres to a maximum of 300 (three-hundred) animal units.

F. The keeping of wild or exotic animals shall be permitted only in AF zones with a conditional use permit and other required state and federal permits.

G. Manure shall not be allowed to accumulate.

H. All animal units shall be kept or pastured meeting the required lake setback to the OHWL of a public water.

MS/P Fitch/Kostial to recommend approval and adoption by the County Board at 2<sup>nd</sup> Reading.

### **3. Make vegetation removal on slopes/bluffs consistent with earth moving on slopes/bluffs with use of mechanized removal to be determined by ESD.**

#### **1126.6 Stairways, Lifts, and Landings**

E. No mechanized earth moving equipment shall be used in bluff zones except as authorized by ESD.

#### **1128.1 Bluff Impact Zones / Steep Slopes**

No trees or shrubs shall be removed within a bluff impact zone or steep slopes greater than 18 % except to accommodate the placement of stairways, landings, lifts or access paths. Clearing width shall not exceed 8 (eight) feet. Pruning of trees as approve by ESD is allowed to provide a view to the water from the principal dwelling site. Mechanized equipment shall not be used in bluff impact zones or steep slopes greater than 18% except as authorized by ESD.

MS/P Moore/Froehlig to recommend approval and adoption by the County Board at 2<sup>nd</sup> Reading.

### **4. Allow a platted lot to be split into two parcels without going through the platting process.**

Cass County Subdivision and Platting Ordinance:

**4.01 PROCEDURE:**

The procedure established herein shall be followed in the administration of this ordinance. No plat shall be recorded until a pre-application meeting has been held; a preliminary and final plat of the proposed subdivision has been approved by the PC. A public hearing must be held for all proposed plats, and no plat shall be approved until after such public hearing. Plats of group developments for housing, commercial, industrial or other uses or for any combination of uses designed for rental purposes shall be presented in the same manner as other plats for the review and approval of the PC. Subdivisions of existing platted lots ~~must use the platting process.~~ into no more than 2 lots meeting current area and buildable requirements (lot size requirements) may be done by Certificate of Survey.

MS/P Kostial/Fitch to recommend approval and adoption by the County Board at 2<sup>nd</sup> Reading.

**5. Change the term "Planning Advisory Commission" and "PAC/BOA" to "Planning Commission" and "PC/BOA" in all instances in the Cass County Land Use Ordinance and Cass County Subdivision Ordinance.**

MS/P Froehlig/LaPorte to recommend approval and adoption by the County Board at 2<sup>nd</sup> Reading.

MS/P Fitch/Moore at 11:50 am to recess until 1:00 pm.

Johnson, Jeff & Carol, Wabedo Township on property described as Lot 11, "Manders Broadwater Beach", Section 5-140-28, PID #46-362-0110 located at 282 Glenmar Drive NE. An application submitted to expand a non-conforming residence with an 8 feet x 24 feet addition. The residence is non-conforming because it is located 41 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1126.1 A. which requires structures to be at least 75 feet from a lake classified General Development (GD), Section 1115.3 which establishes the non-conforming structure expansion criteria and Section 800 which establishes variance review criteria. The parcel contains .21 acre riparian to Woman Lake (GD).

27 notices of the application were mailed. One response challenging the Johnsons' location of the property boundary line along with three responses, including that of Wabedo Township, endorsing approval of the application were received. The proposal was discussed and reviewed with Mr. Johnson.

MS/P LaPorte/Fitch to approve the application to expand the non-conforming residence located PID #46-362-0110 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. "Manders Broadwater Beach" was platted in 1961.
2. The lot varies in depth from lake to right-of-way from 80 feet to 90 feet.
3. There is no record in the permit archive as to the construction of the residence which is 41 feet from the OHWM.
4. The application requests a modest addition to the side of the residence.
5. The proposed addition will be located no closer to the lake than the residence.
6. There is nothing to indicate that the proposed residence expansion will have a significant visual impact to the surrounding area.
7. The proposed residence expansion seems a reasonable use of the property when taking into account the size and configuration of the lot 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 the general welfare.
8. The proposed residence 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.
9. The surrounding area contains structures similar in size and scale and there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed addition.
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:

1. ESD required and approved erosion control is installed.
2. If shoreline vegetative enhancement or restoration is required by ESD or the Planning Commission, a written plan for suitable vegetation shall be 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. It is recommended that the owners of Lots 11 and 12 mutually have the boundary line between the lots be verified.
2. In no case shall the proposed addition be less than 10 feet from the property boundary line between Lots 11 and 12.
3. The dimensions, configuration and location of the residence expansion shall not vary from that submitted 06/24/14.
4. Approval does not allow or imply that the structure to be expanded can be removed by demolition or any other method from the site nor shall the structure to be expanded be reduced to "one wall".
5. Any material resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
6. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
7. ESD shall determine the need for shoreline vegetative enhancement/restoration to depth from the water as determined by ESD and if required applicant shall provide a plant type and implementation plan to be approved by ESD.
8. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
9. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
10. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 07/21/16.

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.

Kostial, Kenneth, Woodrow Township on property described as Part of Gov Lot 4, Section 24-140-29, PID #51-024-3216 located at 3404 Shore Acres Road NW. An application submitted to expand a non-conforming residence with expansion totaling 1,116 square feet. The residence is non-conforming because it is located 65 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1126.1 A. which requires structures to be at least 75 feet from a lake classified General Development (GD), Section 1115.3 which establishes the non-conforming structure expansion criteria and Section 800 which establishes variance review criteria. The parcel contains 1.45 acres riparian to Woman Lake (GD).

38 notices of the application were mailed. One response from Woodrow Township recommending approval of the application was received. The proposal was discussed and reviewed with Mr. Kostial.

MS/P Froehlig/Fitch/Kostial Recused to approve the application to expand the non-conforming residence located upon PID #51-024-3216 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 property became of record in 1959.
2. The location of the residence was approved by VP75-140-29-2.
3. There is nothing to indicate that the proposed expansion of the residence will have any perceptible detrimental visual impact to Woman Lake or neighboring property.
4. The proposed expansion of the residence is a reasonable use of the property when taking into account the structure size, location and needs of the occupants 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.
5. The configuration, location and size of the proposed expansion will not be 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.
6. The surrounding area contains lots and structures similar in size and scale and there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed expansion.
7. There is no indication or reason to conclude that water quality has been in any manner affected by the proposed use.
8. 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:

1. ESD required and approved erosion control is installed.
2. If shoreline vegetative enhancement or restoration is required by ESD or the Planning Commission, a written plan for suitable vegetation shall be 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, location and configuration the residence expansion shall not vary from that submitted 06/26/14.
2. Any material 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 determine the need for shoreline vegetative enhancement/restoration to depth from the water as determined by ESD and if required applicant shall provide a plant type and implementation plan to be approved by ESD.
5. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
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 07/21/16.

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.

Quanbeck, Ronald/Dybvig, Alyssa, Trelipe Township on property described as Lot 2, "Trelipe Estates First Addition", Section 1-140-27, PID #44-341-0112. An application submitted to be allowed to retain an existing non-conforming 20 feet x 24 feet structure located 35 feet from the lake. The structure was formerly utilized for a youth camp residence and has been abandoned for more than one year thus requiring new owners to request a variance to retain and use. The relevant portions of the Land Use Ordinance (02/15/13) are Section 1126.1 A. which requires structures to be at least 100 feet from a lake classified Recreational Development (RD) and Section 800 which establishes the variance review criteria. The parcel contains 2.1 acres riparian to Upper Trelipe Lake (RD).

19 notices of the application were mailed. Three responses, two objecting to approval and one supporting approval of the application were received. The application was discussed and reviewed with Mr. Quanbeck and Ms. Dybvig.

MS/P Kostial/LaPorte to approve the application to retain the A-Frame structure located upon PID #44-34143-033-2400 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. Based upon the site visit and the proximity of the developed lot to the east any reasonable person would determine that the A-Frame structure in question is located upon Lot 2.
2. The A-Frame is 20 feet x 24 feet and contains 480 square feet and appears to be in reasonably good structural condition.
3. The applicants propose to refurbish at current configuration which will primarily involve placement of window/screens with no footprint enlargement.
4. The applicants intend to use the A-Frame as a gazebo with no electric or water or permanent habitation.
5. There is nothing to indicate that the A-Frame location has any perceptible detrimental visual impact to Upper Trelipe Lake or neighboring property.
6. The application seems a reasonable use of the property when taking into account the structure size and location 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.
7. The A-Frame is not visible to the lake or 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.
8. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
9. The owners cannot be compelled to tear down the subject structure, accordingly the relatively minor repairs, maintenance and cosmetic improvements proposed by the owners are better alternatives than allowing the current state of neglect to continue.

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

1. ESD required and approved erosion control is installed.
2. If shoreline vegetative enhancement or restoration is required by ESD or the Planning Commission, a written plan for suitable vegetation shall be 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 A-Frame shall not be expanded or utilized for permanent habitation.
2. Approval does not allow or imply that the structure 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. Access improvements shall be subject to applicable restrictions and permit requirements.
4. No living vegetation between the structure and the lakeshore be removed and shall not be eligible to the terms and conditions of a Shoreland Alteration Permit.
5. Applicants consent to inspection of the property from time to time by ESD to verify compliance with conditions.
6. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 07/21/16.

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.

Storm, John, Hiram Township on property described as Lots 5 - 7, "Ritzmound", Section 14-140-31, PID #16-423-0050 located at 5526 Whispering Pines Ln NW. An application submitted to expand a residence currently located 78 feet from the lake with a 14 feet x 36 deck with a 14 feet x 20 feet roof which will reduce the lake setback to 64 feet. The relevant portions of the Land Use Ordinance (02/15/13) are Section 1126.1 A. which requires structures to be at least 75 feet from a lake classified General Development (GD) and Section 800 which establishes the variance review criteria. The parcel contains .65 acre riparian to Birch Lake (GD).

42 notices of the application were mailed. One response from Hiram Township recommending denial of the application was received. The application was discussed and reviewed with Mr. Storm's representative Kevin Smith.

MS/P Moore/Froehlig to deny the application for closer lake setback, 64 feet, for a deck expansion to the residence located upon PID #16-423-0050 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. Adequate area is available on the east side of the residence living area construct a deck that will comply with lake and property line setback requirements and provide a view to the lake therefore the application does not rise to the practical difficulty standard.
2. The expansion of the riparian residence is not a reasonable alternative to a deck to the side when taking into account the size, configuration, location and side yard space of the structure and lot which therefore conflicts with the purpose 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 lake side deck would be excessive of scale and unconcealed to the lake which conflicts with 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.

Conditional Use Permit/Preliminary Plat

Bluewater on Webb/Gary Haglund, Birch Lake Township on property described as Part of Gov Lot 3, Section 13-140-30, PID #05-013-4301 located at 2588 County 5 NW. A conditional use permit/plat application submitted to create four additional resort cabin unit sites to plat in order to create legal descriptions for the resort sites in their current location. The property will continue to operate as a resort with the option of separate ownership of the resort cabin sites. The relevant portions of the Land Use Ordinance (02/15/13) include Section 705 which establishes the conditional use permit (CUP) review criteria and process and Section 1104.9 which establishes the resort criteria and requirements. In addition, Article 4 of the Cass County Subdivision and Platting Ordinance (02/15/13) establishes the preliminary plat criteria and process. The parcel contains 4.06 acres riparian to Webb Lake (RD).

63 notices of the application were mailed. No written responses were received. Several persons in attendance commented as to their objection the density standards of the Land Use Ordinance as they apply to Bluewater Resort and to general unhappiness with the resort and its operation. The application was discussed and reviewed with Mr. Haglund and Mr. Freeman.

MS/P Moore/Fitch to approve the CUP application as submitted for Bluewater on Webb Resort/Gary Haglund located at PID #05-013-4301 based upon review of the criteria contained in the applicable portions of Section 1104.9 and Section 705 of the Land Use Ordinance (02/15/13) with the following findings and conditions:

MS/P Moore/Froehlig to approve the preliminary plat of Bluewater on Webb as presented by Gary Haglund located at PID #05-013-4301 based upon review of the criteria contained in

Article 4 of the Subdivision and Platting Ordinance (02/15/13) with the following findings and conditions:

Findings:

1. As best can be determined the property has been operated as a resort from the 1950's which predates land use regulation.
2. There is no record of a conditional use permit (CUP) for the resort since the adoption of land use regulation in the 1970's.
3. There is no evidence to conclude that over the years of operation that the resort has adversely affected adjoining property.
4. The resort clientele is temporary and transient which most likely will have no impact to public facilities such as schools and parks.
5. The resort utilizes existing township and state roadways that will not require expansion or reconfiguration therefore additional public infrastructure will not be required.
6. No wetland or critical habitat will be disturbed by platting or potential expansion.
7. No scenic or historic features will be affected by platting or potential expansion.
8. No threat to public health, safety and welfare can be expected from platting or potential expansion.
9. Waste water treatment complies with applicable county and state standards with no public infrastructure required.
10. There is no evidence or reason to expect that platting or potential expansion will adversely affect adjoining property.
11. The resort complies with the resort RD density standards and shall remain so provided resort licensing and Water Oriented Commercial (WOC) are maintained.
12. ESD has reviewed the preliminary plat for compliance with Article 4 of the Subdivision & Platting Ordinance (03/09/09).
13. The plat does not reach the mandatory EAW/EIS review standards.
14. The plat does not reach the NDPEs Permit threshold.

Conditions:

1. ESD shall be provided with verification of MN DOH Resort License; and, for so long as the resort shall be operated a valid and effective Resort License shall be continuously maintained.
2. All resort units shall be rented daily, weekly or seasonally.
3. No resort unit shall be designated Homestead or occupies as a primary residence.
4. All resort units must be offered for rent.
5. Cass County staff shall have the right to inspect and if necessary audit records to verify compliance with Cass County rental requirements with the owners responsible for all costs of inspection and verification.
6. Resort units may be required to be removed or relocated in compliance with Cass County residential standards should the property cease to be a licensed resort.
7. Rental of resort units shall be subject to regulations by the Association and Managing Agent consistent with Cass County Ordinances.

8. The provisions of the declarations shall not be altered or amended with the review and consent of the Cass County Planning Commission.
9. No later than 03/31 of each year, commencing 03/31/2016, the holder of the CUP shall submit to ESD for the prior calendar year ending 12/31 a written report showing for each resort unit: 1) the number of days that the resort unit was occupied by the owner, 2) the number of days that the resort unit was rented, 3) the number of days the resort unit was unoccupied and 4) an exception not to be included in the gross data that within 7 days of an unoccupied period if not rented the owners may occupy for a period not to exceed 7 days. The report shall confirm or not that over a 3 year period that each resort unit is occupied for fewer days by the owner than rented not to include exception days. For each day of delay of submittal beyond 03/31 the holder of the CUP shall submit with the report \$150.00
10. The resort at all times shall be owned, operated and maintained in compliance with this Conditional Use Permit and these Conditions and applicable Cass County Ordinances.
11. All applicable township, county, and state permits/licenses shall be maintained.
12. All applicable county inspections and compliance verification shall be obtained and maintained.
13. Organizational and operating documents for the resort fully complying with the terms of the CUP approving the resort shall be submitted for review and consideration of the PC/BOA and shall be a condition of approval of the Final Plat.
14. ESD shall inspect the existing shoreline vegetative and if deemed necessary, Bluewater shall submit to ESD a plan for enhancement.
15. A Phase I Archeological Report must be submitted in order for the plat to be signed by the Director ESD.
16. Unless extended or revised by the Planning Commission this preliminary plat approval shall be effective until 07/21/15.

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

Ten Mile Enterprises LLC, Birch Lake Township on property described as Part of Gov Lot 5, Section 31-141-30, PID #45-031-4305 and Gov Lot 2 W of Hwy & Less S 4 Acres Less Hwy, Section 6-140-30, PID #05-006-1202 located at 4777 State 371 NW. An application submitted to be construct a restaurant which requires a conditional use permit (CUP) when located within an area classified Water Oriented Commercial (WOC). The relevant portion of the Land Use Ordinance (02/15/13) includes Section 1104.7 Water Oriented Restaurants criteria and Section 705 of the Land Use Ordinance (02/15/13) establishes the conditional use permit review criteria. The parcel contains 7.8 acres riparian to Ten Mile Lake (WOC).

61 notices of the application were mailed. One response objecting to approval of the application was received. Several persons as part of a larger group all opposed to approval of the

application raised their objection to the proposed dock location and configuration to which Cass County has no jurisdiction. The proposal was discussed and reviewed with Mr. Cox and Mr. Gilbertson representing Ten Mile Lake Enterprises LLC.

MS/P Fitch/Moore to approve the application as submitted for the restaurant to be located at PID #45-031-4305 and PID #05-006-1202 based upon review of the criteria contained in Section 1104.7 and Section 705 of the Land Use Ordinance (02/15/13) with the following findings and conditions:

Findings:

1. A restaurant under various ownership/names has operated at this site since the 1950's and there is no historical reason to conclude that a new facility will necessarily cause significant change to land use, traffic patterns or related human activity.
2. Cass County does not have regulatory authority in respect to the proposed dock system which has received a "no permit required" DNR review.
3. The proposed restaurant complies with Section 1104.7.
4. No wetland or critical habitats will be affected by the proposed land use activity.
5. No scenic or historic features will be affected by the proposed land use activity.
6. No evidence or information has been submitted to establish that the proposed land use will have a detrimental effect to public health, safety or welfare.
7. No evidence or information has been submitted to establish that the proposed land use activity has the potential to alter or be detrimental to land use in the general area.
8. Approval will not increase the need or demand for governmental services because no road improvements are required and it does not require waste water treatment.
9. Approval will not contradict the purpose of the official controls, 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 also to promote the health, safety, general welfare.
10. The proposed use will not be obtrusive to the neighborhood and does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.

Conditions:

1. The existing vegetative buffers shall be maintained in current configuration and not reduced except by the permit process.
2. All applicable permits and/or licenses must be obtained.
3. Unless revoked or otherwise revised by the Planning Commission this approval shall be effective as long as the site is used for the approved land use.
4. All plans and specifications submitted 06/26/14 are adopted and approved for implementation.

COMPLIANCE WITH ALL CONDITIONS IS REQUIRED. FAILURE TO COMPLY WITH ANY CONDITION SHALL RESULT IN A VIOLATION AND SUBJECT THE APPLICANT TO ENFORCEMENT PROCEDURES WHICH MAY INCLUDE, BUT NOT LIMITED TO, REVOCATION OF THIS VARIANCE, REMOVAL OF VIOLATIONS AND MITIGATION.

Other Business

Magnuson, Dale, Powers Township on property described as Lots 11 - 13, "Des Moines Beach", Section 27-139-30, PID #34-454-0110 located at 3352 6<sup>th</sup> St NW. Request received to be allowed to utilize the terms and conditions of VP02-139-30-3 approved 08/26/02.

MS/P Fitch/Moore to approve the revision as requested.

Van Dell, Russ & Mary, Crooked Lake Township on property described as Part of Gov Lot 1, Section 14-139-26, PID #12-014-2302 located at 6462 Andresen bay Drive NE. Request received to be allowed to revise the terms and conditions of VP14-139-26-1 approved 05/12/14.

MS/P LaPorte/Kostial to approve the revision as requested.

MS/P Fitch/Froehlig at 3:25 pm, to adjourn.

P. Fairbanks