



Cass County
Planning Commission/Board of Adjustment

August 11, 2014

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting August 11, 2014 in the meeting room of the Cass County Land Department in Backus. The field inspection for the meeting was conducted August 4 and August 5, 2014 with PC members Ballenthin, 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: Ballenthin, Fitch, Froehlig, Kostial, LaPorte, Moore and Sundberg.

Staff Present: Berg, Fairbanks, and Ringle.

Citizens Present: Philip Blott, Larry Cavanaugh, Marilyn Cavanaugh, Teresa Conway, Gordon Courneya, Terry Daudt, Marilyn Davis, David Evans, Anne Evenson, Dave Evenson, Terry Freeman, Dan Gielea, Dale Hagen, David Harrington, Daren Hoverson, Mike Jenson, Anita Jordon, LeRoy Jordon, Dennis King, Bill Klohn, Ben Meister, Michael Mettee, Dave Mliner, Hank Oots, Tom Person, Jeff Peterson, Avery Schett, Trevor Seehy, Andrew Shaffer, Arlan Seppelt, Deb Seppelt, Barb Soine, Jim Soine, Brian Tacke, LuAnn Tacke, Bruce Thompson, Duane Warfield, Judy Warfield, Larry Westphal, Wade Westphal, Norm Wieland and Cy Williams.

MS/P Moore/Kostial to approve the additions to the variance review criteria summary as presented by Ballenthin.

MS/P Froehlig/LaPorte to approve the minutes of the 07/21/14 PC/BOA meeting as presented.

Variance

Cavanaugh, Larry & Marilyn, Wabedo Township on property described as revised Description 1 of Gov Lots 1 & 2, Section 22-140-28, PID #46-022-2120 located at 3628 Lazy Boy Trail NE. An application submitted to expand a non-conforming 28 feet x 58 feet residence with a 20 feet x 30 feet addition to be located 108 feet from the lake. The residence is non-conforming because it is located 92 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1126.1 which requires structures to be located 100 feet from a lake classified Recreational Development (RD), Section 1115.3 which establishes the non-conforming

structure expansion/replacement criteria and Section 800 which establishes variance review criteria. The property contains .88 acre riparian to Little Boy Lake (RD).

36 notices of the application were mailed. No responses were received. The expansion proposal was discussed and reviewed with the applicants.

MS/P Ballenthin/Kostial to approve the application to expand the non-conforming residence located at PID #46-0222120 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 residence was expanded to the lake side in 2002 with the addition shown at 100 feet on the application form.
2. Current lake setback of the residence has been determined to be 92 feet which classifies the residence as non-conforming.
4. Current ordinance requires a variance for any expansion of a non-conforming residence.
5. The proposed addition will be located no closer than 104 feet from the lake which will not affect the lake setback of the structure to be expanded.
6. The visible impact of the proposed expansion will not be significant to neighboring properties or the lake.
7. 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.
8. 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.
9. Because the proposed expanded residence will be similar in size and scale to the other residences located along CSAH #54 and the shore line of Little Boy Lake, there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed expansion.
10. There is no evidence or reason to conclude that water quality will be affected by the proposed expansion.
11. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
12. As proposed in the pending ordinance revision, the expansion placed at the required lake setback even though the residence is non-conforming, will be a permitted use.

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. The dimensions and configuration of the expansion shall not vary from that submitted with the application 07/23/14.
2. Approval does not allow or imply approval 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 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 08/11/16.

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.

Conway, Chris & Teresa, Shingobee Township on property described as NW SE, E 40 Rods of NE SW, Part of Gov Lot 4 & Part of S $\frac{1}{2}$ SE, Section 25-141-31, PID #38-025-3424 located at 5323 Ten Mile Lane NW. An application submitted to replace a 24 feet x 36 feet, 864 square feet,

non-conforming residence with new 36 feet x 18 feet x 24 feet, 1,656 square feet + 12 feet x 24 feet lakeside deck and expanded walkout, construction no closer to the lake than the current setback of 25 feet. The application also requests that the 22 feet x 24 feet x 6 feet x 8 feet guest house with new 28 feet x 24 feet x 12 feet x 24 feet deck x 6 feet x 8 feet deck new construction located no closer to the lake than the current setback of 24 feet. In addition, it is proposed to increase the guest house height to peak to 28 feet from 24 feet. The residence and guest house are non-conforming because they are located less than 75 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, Section 1126.5 which requires a guest house not to exceed 24 feet from grade to peak and Section 800 which establishes variance review criteria. The parcel contains 90.69 acres riparian to Ten Mile Lake (GD).

51 notices of the application were mailed with no responses received. The application was discussed and reviewed with Mrs. Conway and contractor Mr. Daudt including existing conditions, size, location along with proposed new construction size and location options.

MS/P Fitch/Kostial to table consideration of the application until the 09/08/14 meeting in order for the applicants and their contractor to review size and location options for the residence and guest house and present a revised site plan and elevations.

Courneya, Gordon, Ponto Lake Township on property described as Lot 9, Block 1, "Stoneback Woods", Section 20-139-29, PID #32-450-0145 located at 986 Stoneback Trail NW. An application submitted to be allowed to retain, "after the fact", two residential structures, recreational vehicle trailers, upon in a lot intended for one single family residential structure on the parcel which does not meet the minimum standards for guest quarters. The lot is 188 feet wide at the shoreline, 188 feet wide at the structure setback and contains 104,544 square feet. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1113.1 which requires a guest quarters lot upon a Recreational Development (RD) lake to contain 100,000 square feet total area, 40,000 square feet buildable area and be 265 feet at the water and structure setback and Section 800 which establishes variance review criteria. The parcel contains 2.4 acres riparian to Sylvan Lake (RD).

26 notices of the application were mailed. Two responses, both opposed to approval of the application, were received. The application was discussed and reviewed with Mr. Courneya including options that might be available to bring the property into compliance. Mr. Courneya withdrew his application and agreed that one of the recreational vehicle trailers would be placed in the storage structure located on the property when not in use. ESD will verify placement within 30 days after completion of construction of the structure.

EG Lakewood LLC, Torrey Township on property described as Gov Lot 4, Section 22-143-25, PID #43-022-3100. An application submitted to be allowed to fill a portion of wetland area located within the lake setback of 100 feet in order to construct a boat access to the Little Vermillion

Lake which does not have a public access. The relevant portions of the Land Use Ordinance (02/15/13) are Section 1106.3 A. & B. which does not allow for the alteration of a wetland within Shore Impact Zones 1 & 2, Section 1126.3 A. which allows for a boat access at a lake that does not contain a public access Section 1126.3 E. which does not allow for wetland alteration to construct a boat access & restricts a harbor from being excavated in a wetland and Section 800 which establishes variance review criteria. The parcel contains 38.4 acres riparian to Little Lake Vermillion (RD).

14 notices of the application were mailed. One response supporting approval of the application was received. The proposal was discussed and reviewed with EG Lakewood LLC representatives.

MS/P Fitch/Froehlig to approve the application as presented to be allowed to fill wetland for watercraft access ramp for PID #43-022-3100 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 public access for watercraft launch located upon the shoreline of Little Vermillion Lake (RD).
2. Section 1126.13 allows for the placement of a watercraft launch for a private residential lot upon a lake with no public access.
3. The location of the wetland area along the shoreline restricts the placement of a watercraft launch from the property.
4. It appears that no other natural or constructed options are available to accomplish watercraft launch from the property.
5. There is nothing to indicate that the proposed watercraft launch will have a significant visual impact to the surrounding area.
6. The proposed watercraft launch seems a reasonable use of the property when taking into account that there is no public access and no other options for placement other than a wetland fill of the smallest amount possible 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.
7. The proposed watercraft launch area shall not be allowed to 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.
8. The property contains 38.4 acres and has no closely located neighboring residences therefore there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed addition expansions.

9. 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. Approval does not relieve or exempt the applicant from the applicable wetland sequencing requirements.
2. The watercraft launch construction shall comply with the criteria described in Section 1126.13.
3. The dimensions, configuration and location of the watercraft launch placement and construction shall not vary from that submitted 07/21/14 unless superseded by wetland sequencing.
4. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
5. ESD shall 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.
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. 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 08/11/16.

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.

Evenson, David, Woodrow Township on property described as part of Gov Lot 4, Section 27-140-29, PID #51-027-3200 located at 1321 County 46 NW. An application submitted to be allowed to retain "after the fact" the placement of a 22 feet x 60 feet mobile home utilized as guest quarters and "after the fact" a 21 feet x 24 feet addition to the mobile constructed sans land use permit. The "after the fact" guest quarters structure contains 1,824 square feet. The parcel contains 69,696 square feet, is 403 feet wide at the structure setback which is 100 feet from the lake and is 430 feet wide at the shoreline. The relevant portions of the Land Use Ordinance (02/15/13) include Section 501 A. which requires a land use permit for the placement of structures and related activities, Section 113.1 which established that a riparian lot located on a Recreational Development (RD) contain 100,000 square feet and be at least 265 feet wide at the water and setback, Section 1126.5 which establishes that quest quarters located on a riparian lot shall not exceed 900 square feet and Section 800 which establishes variance review criteria. The parcel contains 1.6 acres riparian to Sand Lake (RD).

25 notices of the application were mailed. Two responses, one concerned with access for their property through the Evenson parcel and one response from Woodrow Township recommending denial of the application were received. The proposal was discussed and reviewed with Mr. and Mrs. Evenson.

MS/P Froehlig/Kostial to approve the application to allow the guest house placement and size to remain upon PID #51-027-3200 based upon review of the criteria contained in Section 800 of the Land Use Ordinance (02/15/13), M.S. 394.27, Subdivision 7 and the "after the fact" review criteria contained in the Minnesota Supreme Court "Stadsvold" Decision with the following findings and conditions:

Findings:

1. The lot contains 69.6% of the required total area of 100,000 square feet and more than 100% of the total buildable area required.
2. The lot contains 162% of the required lot width at the lake and the structure setback required width of 265 feet.
3. Although the lot is riparian the guest house is separated from the lake by CSAH #46.
4. The guest quarters is screened and unobservable from the lake and exceeds required lake, right-of-way and property boundary line required setbacks.
5. The placement and location of the guest quarters seems not an unreasonable use of the property when taking into account the size and unusual configuration of the lot along with its 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.

6. The guest quarters structure is not 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 of similar size and scale, there is no reason or evidence to conclude that area land use has been negatively affected or altered by the existing use.

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

9. There is no evidence or indication to conclude that the applicant has acted in anything but good faith.

10. There is no evidence or indication that the applicant did not knowingly evade the requirements of the ordinance.

11. Substantial investment has been made by the construction of an accessory structure and installation of a SSTS.

12. The guest quarters structure is in place and the SSTS is intended to be installed and inspected.

13. There are similar structures throughout the County.

14. Based upon #s 8-12 it seems that denial would not serve the interests of justice and reasonableness.

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. No additional structure intended for habitation/occupancy shall be located upon the property.
2. The dimensions, configuration and location of the guest quarters structure shall not vary from that observed by the Planning Commission 08/04/14.
3. 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.
4. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
5. The guest house shall not be available for public use or rental and under no circumstances be held out, promoted or utilized as part of Deer Acres Resort.

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.

Hagen, Dale & Nancy, Hiram Township on property described as W 70 Feet of E 340 Feet of N 400 Feet of Gov Lot 3, Section 10-140-31, PID #16-010-3103 located at 4128 Pebble Beach Lane NW. An application submitted to expand a non-conforming 26 feet x 30 feet residence with 10 feet x 30 feet addition to the side of the residence no closer to the lake than the existing structure. The residence is non-conforming because it is located 45 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1126.1 which requires structures to be located 75 feet from a lake classified General Development (GD), Section 1115.3 which establishes the non-conforming structure expansion/replacement criteria and Section 800 which establishes variance review criteria. The property contains .55 acre riparian to Ten Mile Lake (GD).

34 notices of the application were mailed with no responses received. The proposal was discussed and reviewed with Mr. Hagen.

MS/P Ballenthin/Fitch to approve the application to expand the non-conforming residence located upon PID #16-010-3101 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 1969.
2. There is nothing in the permit archive for construction of the residence although it is obvious that it was prior to the adoption of land use regulation and according to the property records by a previous owner.

3. There is nothing to indicate that the proposed expansion of the residence will have any perceptible detrimental visual impact to Ten Mile Lake or neighboring property.
4. The proposed addition will not increase the lake setback encroachment.
5. The proposed expansion of the residence is 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.
6. 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.
7. 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.
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. In addition, the height to peak of the addition shall not exceed the height of the residence prior to expansion.

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 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 placement prior to the commencement of construction.
5. 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.
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. 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 08/11/16.

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.

Harrington, Barbara, Crooked Lake Township on property described as Part of Gov Lot 6, Section 17-139-26, PID #12-017-1400 located at 1480 56th Ave NE. An application submitted to remove 2 existing non-conforming cabins and construct a new residence 60 feet from the lake and 50 feet from the brook. The relevant portions of the Land Use Ordinance (02/15/13) are Section 1126.1 which requires structures to be located 75 feet from a lake classified General Development (GD) and 100 feet from a stream classified Tributary (TR) and Section 800 which establishes variance review criteria. The property contains 27 acres riparian to Lake Washburn (GD) and Dagget Brook (TR).

34 notices of the application were mailed with no responses received. The application was discussed and reviewed with the applicant's representative David Harrington.

MS/P Kostial/Moore to approve the application as submitted for a closer lake and stream setback for a structure intended to replace to existing structures currently located upon PID #12-017-1400 and a subsequent lot containing the structures 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 resort property became a lot of record prior to the adoption of land use regulation.

2. The permit archive contains no record of the original construction but it was obviously prior to the adoption of land use regulation.
3. As allowed for by statute and ordinance both structures could be replaced at current footprint and volume.
4. The applicant proposes to replace the two existing structures with one structure.
5. The portion of the lot utilized for structure lies within setback from Lake Washburn, 75 feet, and Dagget Brook, 100 feet, which severely restricts placement options.
6. Location to the east on the property is restricted by Donut Lake.
7. The proposed residence seems a reasonable use of the property when taking into account the configuration and placement limitations of the property as they relate to Lake Washburn, Donut Lake and Dagget Brook 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.
8. The proposed residence configuration, location and size will not be closer to Lake Washburn and further from Dagget Brook and comply with the side yard setback 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. Because the site is relatively isolated from surrounding area and which is made up of residence 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.
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. The dimensions, location and configuration the proposed residence shall not vary from that submitted 07/24/14.
2. One of the two existing structures must be removed prior to construction of the approved residence.
3. The remaining existing structure must be removed within 90 days of completion of the approved residence.
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, the brook 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. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
8. As requested by the applicant, assuming no revision to the dimensions and location of the approved residence the variance shall remain effective as long as the land use permit for construction is renewed every two years not to exceed six years in total.

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.

Jacobson, Larry/Hiawatha Beach Resort, Leech Lake Township on property described as Part of SW SW, Section 16-143-31 & Part of Gov Lot 1, Section 21-143-31, PID #20-016-3004, Part of SW SW, Section 16-143-31 & Part of Gov Lot 1, Section 21-143-31, PID #20-016-3005 & Part of Gov Lot 5 & Part of SW SW, Section 16-143-31 & Part of Gov Lot 1, Section 20-143-31, PID #20-016-4203 located at 10904 Steamboat Loop NW. An application submitted to construct a harbor for the resort that will encroach upon Wetland Conservation Act (WCA) delineated wetland. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1106.5 which restricts a harbor from being excavated in a wetland and Section 800 which establishes variance review criteria. The combined parcels contain 16.24 acres riparian to Leech Lake (GD).

78 notices of the application were mailed. One response recommending denial of the application was received. The application was discussed and reviewed with Mr. Jacobson, Mr. Freeman and Mr. Meister.

MS/P Ballenthin/Moore to approve the application to be allowed to encroach upon designated WACA wetland during the course of a new resort harbor, if approved, construction at Hiawatha Beach Resort 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 issue raised by the application is wetland area that would be impacted in order to construct a harbor for the resort.
2. If the variance approved, applicant must proceed to comply with the applicable DNR, COE, EAW and CUP requirements.
3. The County board has established policy that recognizes the importance of the resort/tourism industry to the well-being of the County and established standard in the Land Use Ordinance to provide for reasonable maintenance and expansion based upon density and expansion criteria.
4. A safe harbor for the resort watercraft and guest watercraft is a matter of public health and safety.
5. If approved a new harbor excavation will not result in the elimination or reduction in wetland area but a change of wetland type.
6. The proposed change to wetland type seems a reasonable use of the property when taking into account the available riparian area of 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.
7. The proposed harbor configuration, location and size will not reduce or eliminate existing wetland area 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. Because of the existing resort activity and use, there is no reason or evidence to conclude that area land use will be negatively affected or altered.
9. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
10. The number of total slips in the new harbor will increase by two as compared to existing configuration.

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.

Condition:

1. The applicant must proceed and comply with the applicable DNR, COE, EAW and CUP requirements and no construction excavation within the wetland area or within the shoreland area related to the proposed harbor shall commence until all applicable permits have been obtained.
2. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 08/11/16.

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.

Mliner, David & Ann, Crooked Lake Township on property described as Lot 7, Block 15, "Tingdale Brothers Roosevelt Shores", Section 26-139-26, PID #12-467-1512 located at 6787 Cranberry Lane NE. An application submitted to replace the existing residence with 28 feet x 46 feet new construction to be located within the bluff setback zone. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1126.1 B. which requires structures to be at least 30 feet from the top or toe of a bluff and Section 800 which establishes variance review criteria. The parcel contains .40 acre riparian to Lawrence Lake (RD).

59 notices of the application were mailed with no responses received. The application was discussed and reviewed with Mr. Mliner.

MS/P Moore/Kostial to approve the application for new construction located at PID # 12-467-1512 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. "Tingdale Brothers Roosevelt Shores" was platted in 1928 prior to the adoption of land use regulation in particular minimum lot dimension and bluff criteria.
2. There is nothing in the permit archive for construction of the residence although it is obvious that it was prior to the adoption of land use regulation and consideration of bluff area or setback.
3. Statute and ordinance would allow for replacement at location, footprint and volume by permit.
4. There is nothing to indicate that the proposed residence will have any perceptible detrimental visual impact to Lawrence Lake or neighboring property.
5. The proposed residence will not increase the bluff setback encroachment.
6. The proposed residence will exceed the required lake setback.
7. The applicant has agreed to align the new residence with the directly adjacent neighbor to the east.
8. The proposed residence is a reasonable use of the property when taking into account the size and configuration of the lot 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.
9. The configuration, location and size of the proposed residence will not be obtrusive to neighboring property or the lake 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.
10. 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.
11. 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 of 1,288 square feet and height to peak of 15 feet shall not vary from that submitted 07/23/14.
2. The new residence shall be setback from the top of the bluff and OHWL at least as much as the directly adjacent residence to the east. These measurements will be determined or verified by ESD staff.
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 placement prior to the commencement of construction.
5. 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.
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. 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 08/11/16.

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.

Seppelt, Arlan, Ponto Lake Township on property described as N 150 Feet of Gov Lot 1, Section 31-139-29, PID #32-031-2203 located at 340 Lake Hattie Drive NW. An application submitted to be allowed to retain, "after the fact", a guest quarters structures upon in a lot intended for one single family residential structure on the parcel which does not meet the minimum standards for guest quarters. The lot is 150 feet wide at the shoreline, 150 feet wide at the setback and contains 189,486 square feet. The relevant portions of the Land Use Ordinance (02/15/13) are Section 1113.1 which requires a guest quarters lot upon a Recreational Development (RD) lake to contain 100,000 square feet total area, 40,000 square feet buildable area and be 265 feet at the water and structure setback and Section 800 which establishes variance review criteria. The parcel contains 4.35 acres riparian to Lake Hattie (RD).

18 notices of the application were mailed with two responses both advocating approval of the application were received. The application was discussed and reviewed with Mr. and Mrs. Seppelt.

MS/P Froehlig/Ballenthin to approve the application to be allowed to retain the guest house located upon PID #32-031-2203 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 and the "after the fact" review criteria contained in the Minnesota Supreme Court "Stadsvold" Decision with the following findings and conditions:

Findings:

1. The lot contains 189% of the required total area of 100,000 square feet and more than 100% of the total buildable area required.
2. The lot contains 57% of the required lot width at the lake and the structure setback required width of 265 feet.
3. The guest house footprint is 384 square feet which less than half the maximum of 900 square feet allowed for a riparian lot.
4. The guest quarters structure is screened and mostly unobservable from the lake and exceeds required lake, right-of-way and property boundary line setbacks.
5. The placement and location of the guest quarters seems not an unreasonable use of the property when taking into account the size of the lot and mostly undeveloped west side of the lake 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 guest quarters structure is not 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 of similar size and scale, there is no reason or evidence to conclude that area land use has been negatively affected or altered by the existing use.
8. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
9. There is no evidence or indication to conclude that the applicant has acted in anything but good faith.
10. There is no evidence or indication that the applicant did not knowingly attempt to evade the requirements of the ordinance.
11. The guest quarters structure construction is complete.
12. There are similar structures throughout the County.

13. Based upon #s 8-12 it seems that denial would not serve the interests of justice and reasonableness.

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. No additional structure intended for habitation/occupancy shall be located upon the property.
2. The guest shall not be rented separately from the primary residence.

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.

Shaffer, Andrew, Wabedo Township on property described as Part of Gov Lots 1 & 2, Section 11-140-28, PID #46-011-1405 located at 4383 Sioux Camp Road NE. An application submitted to expand an existing 24 feet x 48 feet residence with a 10 feet x 28 feet non-lakeside addition. The residence is non-conforming because it is located 50 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1126.1 which requires structures to be located 100 feet from a lake classified Recreational Development (RD), Section 1115.3 which establishes the non-conforming structure expansion/replacement criteria and Section 800 which establishes variance review criteria. The property contains 1.34 acres riparian to Little Boy Lake (RD).

34 notices of the application were mailed. A response requesting additional in regard to the application and a response from Wabedo Township recommending denial or tabling of the application was also received. The application was discussed and reviewed with Mr. Shaffer.

MS/P Ballenthin/LaPorte to approve the application to expand the non-conforming residence located upon PID #46-011-1405 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 1961 prior to the adoption of land use regulation.
2. The permit archive contains no record of the original construction of the residence and it can be presumed that it occurred prior to the adoption of land use regulation.
3. The proposed residence expansion will be non-lakeside and not visible from the lake.
4. The proposed expansion of the residence seems a reasonable use of the property when taking into account the location and configuration of the structure 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 residence configuration, location and size will not be closer to the lake and comply with the side yard setback 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 is made up of similarly sized lots with 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 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 expansion shall not vary from that submitted 07/18/14. In addition, the height to the peak of the expansion shall not exceed that of the existing structure.
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 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 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 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 08/11/16.

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.

Thompson, Bruce, Rogers Township on property described as Part of Fractional NW NE & Easement, Section 30-142-27, PID #36-030-1205 located at 2641 Woodchuck Lane NE. An application submitted to be allowed to retain, "after the fact" an accessory structure/garage located 8½ feet from the closest property boundary line. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1126.1 A. which requires structures to be at least 10 feet from a property boundary line and Section 800 which establishes variance review criteria. The parcel contains 1.87 acres riparian to Boy Lake (GD).

33 notices of the application were mailed with two responses both advocating denial of the application were received. The application was discussed and reviewed with Mr. Thompson.

MS/P Ballenthin/LaPorte to table consideration of the application until the 09/08/14 meeting in order for ESD staff to inspect the applicant's shoreline area in response to allegations of possible violations.

Vogel, Joy J Revocable Trust, Barclay Township on property located in Section 4-138-29, PID #02-004-4102 located at 231 12th Ave SW. An application submitted to replace a 27 feet x 45 feet non-conforming residence located 8 feet from the lake with 26 feet x 32 feet new construction to be located 23 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 100 feet from a lake classified Recreational Development (RD), Section 1115.3 which establishes the non-conforming structure replacement/expansion criteria and Section 800 which establishes variance review criteria. The parcel contains 18.35 acres riparian to Horseshoe Lake (RD).

21 notices of the application were mailed. One response recommending approval of the application was received. The application was discussed and reviewed with Mr. Vogel and Mr. Sawyer.

MS/P Ballenthin/Fitch to deny the application to for a closer lake setback for a residence to be constructed upon PID #02-004-4102 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. Statute and ordinance would allow for replacement at location, footprint and volume by permit.
2. Adequate area is available on the property to the north of Horseshoe Lake to comply or substantially comply with the required setback of 100 feet. Therefore, the property owner does not propose to use the property in a reasonable manner not permitted by an official control and there are no unique features of the property not created by the owner.
3. The proposed structure is almost entirely within Shore Impact Zone 1 (SIZ-1), 50 feet land from the OHWL. The Land Use Ordinance does not permit any structures within SIZ-1 and a variance represents a most substantial deviation from the requirements of the Ordinance.
4. The proposed structure location is not consistent with the Comprehensive Plan because the Comprehensive Plan is intended to protect the County's natural resources from degradation and placing structures within SIZ-1 contributes to soil compaction and adds impervious surface area which results in additional water run-off carrying nutrients to the lake in degradation of the lake resource.
5. The proposed structure location is not in harmony with the purposes of the Land Use Ordinance which implements the Comprehensive Plan because the location and 12 feet height to peak of the proposed structure at 23 feet from the lake presents a visual appearance at the lakeshore far in excess of the visual appearance at 30 feet to peak at 100 feet from the lake shore, because placing structures within the SIZ contributes to soil compaction and add impervious surface area which results in additional run-off carrying nutrients to the lake in

degradation of the lake resource which conflict with the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.

6. The proposed structure location and height to peak is an excessive increase of scale which would be unconcealed to the lake and alter the essential natural of the locality and would be injurious to the use and enjoyment of other property in the area.

Conditional Use Permit

Kuschel, Linda, Powers Township on property described as Revised Description 1 of Gov Lot 3, Section 21-139-30, PID #34-021-1404 located at 3655 Magpie Lane NW. An application submitted to be allowed to establish, "after the fact", a private campground consisting of the existing two cabins and two recreational vehicle trailers with the option to add one additional recreational vehicle trailer with a total limit of five cabin/recreational vehicle trailers. The relevant ordinances references are Section 1121 B. of the Land Use Ordinance (02/15/13) allows for a private campground intended for family use and not available to the public and Section 705 of the Land Use Ordinance (02/15/13) establishes the conditional use permit review criteria. The parcel contains 9.45 acres riparian to Horseshoe Lake (RD).

75 notices of the application were mailed. Five responses all opposed to approvable of the application were received. The application was discussed and reviewed with Ms. Kuschel.

MS/P Fitch/LaPorte to approve the CUP application as submitted to approve a private campground located at PID #34-021-1404 based upon review of the criteria contained in the applicable portions of Section 1121 B, Section 705 of the Land Use Ordinance (02/15/13) the Land Use Ordinance (02/15/13), M.S. 394.27, Subdivision 7 and the "after the fact" review criteria contained in the Minnesota Supreme Court "Stadsvold" Decision with the following findings and conditions:

Findings:

1. The existing activity is on-going and this application is intended to address the current land use activity to ensure that it will not be disruptive to the neighbors located along Horseshoe Lake.
2. No wetland or critical habitats have been affected by the existing land use activity.
3. No scenic or historic features have been affected by the existing land use activity.
4. No evidence or information has been submitted to establish beyond a reasonable doubt that the existing land use has a detrimental effect to public health, safety or welfare.
5. No evidence or information has been submitted to establish beyond a reasonable doubt that the current land use activity has altered or been detrimental to land use in the Horseshoe Lake area.

6. The designation of private campground will not increase the need or demand for governmental services because no road improvements are required and it is not nor will be served by municipal or community waste water treatment.
7. The private campground designation does not contradict the purpose of the official control, 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.
8. The recreational vehicle trailers and cabins are unobtrusive to the neighborhood and the lake and do 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. There is no evidence or indication to conclude that the applicant has acted in anything but good faith.
10. There is no evidence or indication that the applicant did not attempt to comply with the ordinance.
11. Investment has been made to improve the property.
12. The site configuration except for possibly one more unit is complete.
13. There are similar structures throughout the County.
14. Based upon #s 9-13 it seems that denial would not serve the interests of justice and reasonableness.

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.

Conditions:

1. The property shall contain no more than the existing four recreational vehicles trailers/cabins at their current locations. Addition of any recreational vehicle trailers/cabins shall require a CUP authorizing same.
2. The four recreational vehicle trailers/cabin at their current locations shall not be expanded or relocated without a CUP authorizing same.
3. The four recreational vehicle trailers/cabins shall not be utilized for permanent habitation.
4. The property or recreational vehicles shall not be available for public use or rental.
5. The existing vegetative buffer along the shoreline and property boundaries shall be maintained in current configuration and not reduced.
6. ESD shall determine if shoreline vegetative enhancement or restoration is required and if so, a written plan for suitable vegetation shall be approved by ESD and agreed to be implemented by applicant.

7. No person or activity shall make noise reasonably tending to arouse alarm or resentment of others by means of a public address system, radio, stereo, amplifier, power equipment or by any other means.
8. No person shall engage in boisterous, noisy or threatening conduct reasonably tending to arouse alarm, anger or resentment in others.
9. A person or activity may not make a noise at a level above that of a quiet conversation between the hours of 10:00 pm and 8:00 am which are designated as quiet hours.
10. The property shall be kept and maintained at all times in a manner consistent with the provisions of Section 1117 Public Nuisances of the Land Use Ordinance (02/15/13). If the Planning Commission finds that the property is not so kept and maintained it may, after giving the property owner or person in control of the property reasonable opportunity to correct any deficiencies, amend, modify or revoke the CUP or take such other action as it deems appropriate for the circumstances.
11. Unless revoked or otherwise revised by the Planning Commission this approval shall be effective until 06/09/16 at which time the applicant or a representative shall request that the PC inspect the site and review the land use approved.
12. The applicant shall consult with ESD staff in order to evaluate current storm water run-off and the need to develop a plan to improve and manage run-off.
13. A compliance inspection for the existing privy shall be submitted to ESD by 11/01/14.

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

Shimer, Mark, Turtle Lake Township on property described as E $\frac{1}{2}$ NE NE Excluding Therefrom the Wly 280 Feet Thereof & the Sly 900 Feet Thereof, Section 9-141-30, PID #45-009-1101 located at 3617 State 200 NW. An application submitted to convert the existing commercial structure into two apartment units, to locate two mobile homes upon the parcel in addition to the existing mobile home utilized as the applicant's residence and to relocate a cabin straddling the property line wholly on the property. The relevant portions of the Land Use Ordinance (02/15/13) include Section 903.8 which establishes that a conditional use permit (CUP) be obtained for all commercial activity within C-2 and Section 705 which establishes the conditional use permit review criteria. The parcel is non-riparian within the shore-land area (1,320 feet) of Cedar Creek classified Tributary.

38 notices of the application were mailed. Two responses including one opposed to approval of the application were received. The application was discussed and reviewed with Ms. Kuschel.

MS/P Moore/Froehlig to approve a CUP as submitted for PID #45-009-1101 based upon review of the criteria contained in the applicable portions of Section 903.8 and Section 705 of the Land Use Ordinance (02/15/13) the Land Use Ordinance (02/15/13):

Findings:

1. No wetland or critical habitats will be affected by the proposed land use activity.
2. No scenic or historic features will be affected by the proposed land use activity.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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 structure renovation shall not exceed two living units.
2. The number of additional residential structure on the site shall not exceed two mobile homes plus the one cabin to be moved wholly onto the property and the applicant's residence.
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.

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 CUP, REMOVAL OF VIOLATIONS AND MITIGATION.

NDPL LLC, Powers Township on property described as NE SW - Section 4-139-30 PID # 34-004-3100. An application submitted for a temporary pipe storage yard facility to be utilized in conjunction with pipeline construction. The relevant portion of the Land Use Ordinance (02/15/13) include, Section 1001 Uses and Section 705 of the Land Use Ordinance (02/15/13) establishes the conditional use permit review criteria. The parcel contains 40.12 acres non-shoreland (RR-2.5).

24 notices of the application were mailed with no responses received. The application was discussed and reviewed with NDPL LLC representatives.

MS/P Fitch/Kostial to approve a CUP as submitted for PID #34-004-3100 based upon review of the criteria contained in the applicable portions of Section 1101 and Section 705 of the Land Use Ordinance (02/15/13) the Land Use Ordinance (02/15/13):

Findings:

1. No wetland or critical habitats will be affected by the proposed land use activity.
2. No scenic or historic features will be affected by the proposed land use activity.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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.
8. Approvable does not endorse and imply endorsement of any of the proposed pipeline routes.

Conditions:

1. If the route of the proposed pipeline is revised and this store yard is not required, the stored material must be removed and the site returned to its natural state within 12 months of the MN PUC decision and any subsequent appeals.
2. Upon completion of construction along this portion of the pipeline route, if approved, this store yard and the stored material must be removed and the site returned to its natural state within 12 months of the completion of this segment of pipeline construction.
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. Appropriate fencing and signage shall be constructed in accordance with similar industry standards and ESD staff review.
5. The applicant shall provide verification of their agreement to the proposed Haul Road Agreement proposed by the Cass County Highway Department.

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.

ENFORCEMENT PROCEDURES WHICH MAY INCLUDE, BUT NOT LIMITED TO,
REVOCATION OF THIS CUP, REMOVAL OF VIOLATIONS AND MITIGATION.

Other Business

Correspondence in regard to possible revisions to the Quarterdeck Resort CUP was discussed with Mr. Klohn and Mr. Pearson with no action taken.

MS/P Froehlig/Fitch at 4:05 pm, to adjourn.

P. Fairbanks