



Cass County  
Planning Commission/Board of Adjustment

September 8, 2014

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting September 8, 2014 in the meeting room of the Cass County Land Department in Backus. The field inspection for the meeting was conducted September 2, 2014 with PC members Anderson, Fitch, Kostial, LaPorte, Sundburg 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 and Sundberg.

Staff Present: Berg, Fairbanks, and Ringle.

Citizens Present: Karin Arnsan, Bonnie Brueshoff, Dave Brueshoff, Danny Hauser, Court Lichert, Terry Daudt, Carol Decker, Ruth Edwards, Terry Freeman, Gary Haglaund, Carol Johnson, Ron Johnson, Randy Kollodge, Debbie LeMire, Scott LeMire, Dennis Lillyquist, Dean Lykke, Linda Merritt, Ron Merritt, Terry Nagorski, Michelle Pepin, Jeff Peterson, Clarence Reuter, Mark Reuter, James Schwartz, Linda Schwartz, Rick Smith, Curt Stowell, Tom Theisen, Bruce Thompson, Phillip Weber and Norm Wieland.

MS/P Fitch/Froehlig to approve the minutes of the 08/11/14 PC/BOA meeting as presented.

Variance

Brueshoff, David, Woodrow Township on property described as Lot 2, "Maewood", Section 15-140-29, PID #51-420-0020 located at 939 Maple Crest Drive NW. An application submitted to construct a 34 feet x 36 feet residence to be located 45 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) and Section 800 which establishes variance review criteria. The parcel contains .42 acre riparian to Woman Lake (GD).

53 notices of the application were mailed. One response from Woodrow Township recommending denial of the application was received. The application was discussed and reviewed with the applicants with discussion centered upon the proposed setback from the lake.

MS/P Fitch/Kostial to table consideration of the application until the 10/13/14 meeting in order for the applicants to consider setback options and for the PC to visit the site again.

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 for both meetings with one response received offering no objection to the application and one from the North Ten Mile Sewer District explaining why the option to replace the two structures with one structure is not a viable option based upon infrastructure location near to and on the property. The application was discussed and reviewed with the applicants' representative/contractor Mr. Daudt including existing conditions, size, location and the proposed new construction size and location.

MS/P Kostial/Fitch to approve the application as presented for new construction of the primary residence and guest house upon PID #38-025-3424 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/Residence:

1. The property became a lot of record in 1967 prior to the adoption of land use regulation.
2. The permit archive contains no record of the original construction of the primary residence or guest house and it can be presumed that it occurred prior to the adoption of land use regulation.
3. The riparian portion of the lot from the lake to the right-of-way of Ten Mile Lake Lane varies from 60 feet to 91 feet
4. The residence and guest house have occupied the riparian portion of the lot in some form or another from prior to land use regulation.
5. Statute and ordinance allow for replacement at current setback, footprint and volume.

6. The proposed expansion of the residence, structure # 1 on the site plan, seems a reasonable use of the property when taking into account the age and configuration of the structure along with placement limitations due to the area available from lake to road 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 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.
8. 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.
9. There is no indication or reason to conclude that water quality will be affected by the proposed use.
10. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: If 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.

No site preparation or building construction shall be commenced until issuance of a land use permit. Commencement prior to issuance of a land use permit may result in withholding, withdrawal or revocation of a land use permit until inspection by ESD and correction of any circumstances in violation of laws, 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 may be required by ESD.

Conditions/Residence:

1. The dimensions, location and configuration of the residence shall not vary from that dated 08/04/14.
2. The height to peak shall not exceed that of the current structure.

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 09/08/16.

Findings/Guest House:

1. Statute and ordinance allows for replacement of the structure at current footprint and volume.
2. There will be a modest increase in volume but no increase in footprint.
3. Based upon the size and configuration of the riparian portion of the lot from lake to road, replacement with a modest increase in volume with no increase in footprint seems reasonable and therefore not in conflict 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.
4. The proposed guest house footprint and height to peak will not represent an increase to the footprint and will not encroach further to the lake and therefore does not conflict 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.

Conditions/Guest House:

1. The dimensions, location and configuration of the structure shall not vary from that dated 08/04/14.
2. The height to peak lake side shall not exceed 24 feet.
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 09/08/16.

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.

Johnson, Ronald, Woodrow Lake Township on property described as Part of Gov Lot 6, Section 5-140-29, PID #51-005-3105 located at 4508 Evergreen Drive NW. An application submitted to construct a 30 feet x 50 feet residence, a 6 feet x 22 feet porch and a 24 feet x 24 feet attached garage to be located 85 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) are Section 1126.1 A which requires structures to be setback at least 100 feet from a lake classified Recreation Development (RD) and Section 800 which establishes the variance review criteria. The parcel contains 14.9 acres riparian to Baby Lake (RD).

29 notices of the application were mailed. One response from Woodrow Township recommending denial of the application was received. The application was discussed and reviewed with Mr. Johnson centered upon setback option for the proposed residence.

MS/Failed LaPorte/Froehlig - Anderson/No, Fitch/No, Froehlig/Yes, Kostial/Yes, LaPorte/Yes, Sundberg/No to approve the application as presented to locate new residence construction 85 feet from Baby Lake upon PID #51-005-3105 upon review of the criteria contained in Sections 800 and 1126.1 of the Land Use Ordinance (02/15/13).

The failure of the approval motion to gain a majority vote of the Planning Commission resulted in the denial of the application. The findings listed below were prepared by ESD staff and during the course of the 09/08/14 public meeting were provided the applicant and discussed with the Planning Commission.

The following findings constitute the rationale considered by the Planning Commission in the vote to effectively deny the application.

1. There is no record in the permit archive of the original construction and it is presumed to be prior to land use regulation.
2. The application calls for setback of 85 feet to which another 15 feet would bring setback into compliance on the lot which is about 200 feet from lake to road leaving 80 feet when lake and right-of-way setbacks are taken into consideration.
3. Removal of the existing residence affords the opportunity to rebuild in compliance with required setback from the lake.
4. No compelling evidence or reasoning has been presented to demonstrate why required lake setback cannot be complied with.
5. The proposed variance request seems not to be reasonable use of the property when taking into account the size of the lot which therefore is not necessarily in harmony 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.

Kollodge, Randy, Thunder Lake Township on property described as Part of SE NE, Section 30-140-26, PID #42-034-1405 located at 2675 Doe Trail NE. An application submitted to construct a 30 feet x 40 feet accessory/storage structure with no setback from the boundary of a road easement located on the property. The relevant portions of the Land Use Ordinance (02/15/13) are Section 1126.1 B which requires structures to be setback at least 10 feet from a road, trail or utility easement and Section 800 which establishes the variance review criteria. The parcel contains 2.11 acres non-riparian (SR).

27 notices of the application were mailed. One response objecting to approval of the application was received. The proposal was discussed and reviewed with Mr. Kollodge centered upon the location of the driving surface within the easement.

MS/P LaPorte/Froehlig to approve the application to allow construction up to the easement boundary upon PID #42-034-1405 based upon review of the criteria contained in Sections 800 and 1126.1 B. of the Land Use Ordinance (02/15/13) with the following findings and conditions:

Findings:

1. There is nothing to indicate that the proposed structure will have a detrimental visual impact to neighboring property.
2. Placement locations are restricted due to the large wetland and a steep slope located on the property.
3. The proposed setback is a reasonable use of the property when taking into account the location of the driving surface within the easement and the physical features of the property 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 configuration and size of the proposed structure 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.
5. 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.
6. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

7. The location of the structure will not interfere with the safe use of the easement to access neighboring properties.

NOTICE TO APPLICANT: If 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.

No site preparation or building construction shall be commenced until issuance of land use permit. Commencement prior to issuance of a land use permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD and correction of any circumstances in violation of laws, 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 may be required by ESD.

Conditions:

1. The dimensions, location and configuration the structure shall not vary from that submitted 08/13/14.
2. Any material resulting from construction not reused or recycled must be disposed of in a permitted facility.
3. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
4. ESD shall 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 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 09/08/16.

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.

Lemire, Scott & Deborah, Crooked Lake Township on property described as Part of Lot 24, "Luschers Bay" & Part of Lot 18 & Part of Outlot A. "O'Briens Plat on Roosevelt & Lawrence Lakes, Section 26-139-26, PID #12-481-0146 located at 6501 County 58 NE. An application submitted to be allowed to retain "after the fact" playground equipment located less than 100 feet from the lake. The application also requests a 7 feet x 8 feet addition and a 14 feet x 16 feet addition to the residence both less than 100 feet from the lake or channel. 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 (GD) and river or stream classified Tributary (TR) and Section 800 which establishes the variance review criteria. The parcel contains .86 acre riparian to Lawrence Lake (RD) and an unnamed channel (TR) that connects Roosevelt and Lawrence Lakes.

66 notices of the application were mailed with one response supporting approval of the application received. The proposal was discussed and reviewed with Mr. LeMire.

MS/P Froehlig/Kostial to approve the application to expand the residence lake side with a deck and porch upon PID #12-481-0146 based upon review of the criteria contained in Sections 800 and 1126.1 of the Land Use Ordinance (02/15/13) with the following findings and conditions:

Findings:

1. The lake and channel setback, 100 feet, overlap on the property.
2. At the time the residence was constructed, no allowance was made for future lakeside expansion such as deck/porch in order for the original placement in order to comply with lake setback, 100 feet and right-of-way setback of 50 feet.
3. Right-of-way setback has been reduced from 50 feet to 20 feet since the original location of the residence.
4. There is nothing to indicate that the proposed expansion of the residence or leaving storage structure and playground equipment will have any perceptible detrimental visual impact to Lawrence Lake or neighboring property.
5. The proposed expansion of the residence is a reasonable use of the property when taking into account the structure size, location and flat topography of the lot along with the since reduced right-of-way setback 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 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.

No site preparation or building construction shall be commenced until issuance of a land use permit. Commencement 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, 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 may be required by ESD.

Conditions:

1. The dimensions, location and configuration the residence expansion shall not vary from that submitted 08/18/14.
2. Any material resulting from construction not reused or recycled must be disposed of in a permitted facility.
3. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
4. ESD shall 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. The playground equipment and storage structure shall remain in their current location.
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 09/08/16.

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.

Little Sand Group Home/Jahn, Shirley, Slater Township on property described as E 100 Feet of W 200 feet of Gov Lot 9 N of Existing Road, Section 28-142-26, PID #39-028-4402 located at 5910 Little Sand Lane NE. An application submitted to expand a 42 feet x 74 feet non-conforming residential structure with 24 feet x 28 feet story and a half addition. The structure is non-conforming because it is located 62 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 150 feet from a lake classified Natural Environment (NE), Section 1115.3 which establishes the non-conforming structure expansion criteria and Section 800 which establishes variance review criteria. The parcel contains .69 acre riparian to Little Sand Lake (NE).

18 notices of the application were mailed. No responses received. The application was discussed and reviewed with the Little Sand Group Home representatives.

MS/P Kostial/Anderson to approve the application to expand a non-conforming structure located upon PID #39-028-4402 based upon review of the criteria contained in Sections 800 and 1115.3 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 1970 and has been occupied by the group home facility since at least 1977.
2. There is nothing to indicate that the proposed expansion will have any perceptible detrimental visual impact to Little Sand Lake or neighboring property.
4. The proposed addition will be to the non-lakeside of the structure.
5. The proposed expansion of the residence structure 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. 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.
9. The group home occupies two adjoining lots to which the 25% impervious surface maximum is not exceeded.

NOTICE TO APPLICANT: If 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 of a permit until inspection by ESD and correction of violation of laws, 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 may be required by ESD.

Conditions:

1. The dimensions, location and configuration the expansion shall not vary from that submitted 08/19/14.
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 09/08/16.

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.

Lykke, Dean, Rogers Township on property described as Lot 4, "Fawn Park", Section 20-142-27, PID #36-397-0040 located at 8247 Boy Lake Drive NE. An application submitted to expand a 36 feet x 48 feet non-conforming residence with 10 feet x 20 feet, 16 feet x 24 feet and 6 feet x 12 feet additions. The residence is non-conforming because it 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 .6 acre riparian to Boy Lake (GD).

28 notices of the application were mailed. No responses were received. The application was discussed and reviewed with the Lykkes.

MS/P LaPorte/Kostial to approve the application as submitted to expand the non-conforming residence located upon PID#36-397-0040 based upon review of the criteria contained in Sections 800 and 1115.3 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 1956 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 and prior to current ownership.
3. The applicant has stated his intention to remove the existing lakeside deck.
4. None of the proposed expansions will increase lake setback encroachment.
5. The proposed residence expansion seems a reasonable use of the property when taking into account the configuration and placement of the residence which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
6. No part of the proposed residential reconfiguration will be any closer to Boy 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.

7. Because the surrounding area and 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.

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

NOTICE TO APPLICANT: If 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.

No site preparation or building construction shall be commenced until issuance of a land use permit. Commencement prior to issuance of a land use permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD and correction of any 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 may be required by ESD.

Conditions:

1. The dimensions, location and configuration the proposed residence expansion shall not vary from that submitted 08/11/14.
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. 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.
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 09/08/16.

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

McGuire, Joan, Woodrow Township on property described as Part of Gov Lot 3, Section 22-140-29, PID #51-022-2106 located at 1043 County 11 NW. An application submitted "after the fact" to be allowed to retain an accessory/storage structure located 7½ feet from the closest property boundary line. The relevant portions of the Land Use Ordinance (02/15/13) are Section 1126.1 B which requires structures to be setback at least 10 feet from a property boundary line and Section 800 which establishes the variance review criteria. The parcel contains 2.64 riparian to Woman Lake (GD).

43 notices of the application were mailed. One response from Woodrow Township recommending approval of the application was received. The application was discussed and reviewed with the applicant's representative Mr. Hansen.

MS/P Kostial/Anderson to approve the application, after the fact, to allow the storage structure located at PID #51-022-2106 to remain at less than the required setback, 10 feet, from closest property boundary line based upon review of the criteria contained in Sections 800 and 1115.3 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 applicant has acknowledged that the garage is less than 10 feet from the property boundary line.
2. The garage is screened and mostly unobservable from the CSAH # 11 and Woman Lake.
3. The setback encroachment is inadvertent, insignificant and poses no harm to anyone or anything.
4. The placement and location of the structure is a reasonable 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.
5. Although the structure is located at less than the required setback, it 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.
6. 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.
7. There is no reason or evidence to conclude that financial consideration is not the sole reason for the application.

8. There is no evidence or indication that the applicant constructed the garage too close to the property in a surreptitious or devious manner or acted in anything other than in good faith.
9. There is no evidence or indication that the applicant did not attempt to comply with the ordinance.
10. Substantial investment has been made by the construction of an accessory/garage structure.
11. The accessory /garage 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.

Merritt, Linda & Ron, Hiram Township on property described as Lot 2, Block 1, "Moxness Beach", Section 11-140-31, PID #16-393-0120 located at 4069 Long Beach Drive NW. An application submitted to be allowed to retain an existing non-conforming structure as storage. 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) and Section 800 which establishes variance review criteria. The parcel contains 1.2 acres riparian to Ten Mile Lake (GD).

40 notices of the application were mailed. Eight responses all endorsing approval of the application were received. The application was discussed and reviewed with Mr. and Mrs. Merritt.

MS/P Kostial/LaPorte to approve the application, after the fact, to be allowed to retain the structure located along the shoreline of PID #16-393-0120 upon review of the criteria contained in Sections 800 1115.3 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 structure in question was originally the primary residence.
2. Removal of this structure was a condition of approval VP06-140-31-3.
3. The applicant was notified by former ESD Director Fairbanks in 2007 that Condition #1 of VP06-140-31-3 did not apply based upon his understanding of M.S. 117.184 and that the structure could be retained.
4. Nothing further occurred from 2007 to 2014 upon inquiry as to why the structure had not been removed to which the ESD 2007 letter to Merritt was forwarded to the Office of County Attorney.
5. The Office of the County Attorney has deemed the Fairbanks memo of 2007 which contradicts the condition # 1 of VP06-140-31-3 to have been made in error and therefore not applicable.
6. The Office of County Attorney has determined that approval of VP06-140-31-3 to have made the provisions of M.S. 117.184 not applicable in this situation.

7. Therefore if M.S. 117.184 does not apply, the findings and conditions of VP06-140-31-3 remain in force.
8. The applicant submitted VP14-141-31-2 to retain the structure as a residence which was denied 06/09/14.
9. The applicant has submitted this application to retain the structure for storage and other activities and to abandon its use as a guest house/living quarters.
10. There is nothing to indicate that the structure has had any perceptible detrimental visual impact to Ten Mile Lake or neighboring property.
11. The proposed use as storage/day activities seems a reasonable use of the property and 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.
12. Based upon correspondence received it does not appear that the structure has been 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.
13. 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.
14. The applicants have removed all plumbing from the structure.
15. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
16. There is no evidence or indication that the structure was not constructed in a surreptitious or devious manner or not to have acted in good faith.
17. Substantial investment has been made by the maintenance of the structure.
18. The structure construction is complete.
19. There are similar structures throughout the County.
20. Based upon these findings it seems that denial would not serve the interests of justice and reasonableness.
21. The owners acting in good faith did not remove this structure as required by Condition # 1 of VP06-140-31-3 based upon the ESD 2007 position that such removal was not necessary. This position was not contradicted 2014.

NOTICE TO APPLICANT: If 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.

No site preparation or building construction shall be commenced until issuance of a land use permit. Commencement prior to issuance of a land use permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD and correction of 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 may be required by ESD.

Conditions:

1. The structure shall be utilized for day use.
2. The structure 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.

Nistler, Roger & Michelle, Shingobee Township on property described as Lot 3, Block 1, "Hydrds Pine Acres", Section 11-141-31, PID #38-378-0130 located at 6698 Shingobee Road NW. An application submitted for 26 feet x 32 feet addition to an attached garage that will be located 8 feet from the closest property boundary line. The relevant portions of the Land Use Ordinance (02/15/13) are Section 1126.1 B which requires structures to be setback at least 10 feet from a property boundary and Section 800 which establishes the variance review criteria. The parcel contains .77 acre riparian to Leech Lake (GD).

39 notices of the application were mailed. No responses were received. The application was discussed and reviewed with Mr. Nistler.

MS/P Kostial/LaPorte to approve the application to expand the non-conforming residence located upon PID #38-378-0130 upon review of the criteria contained in Sections 800 and 1115.3 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 1971.
2. The original construction was by ZP73-141-31-3 at 10 feet from property line. .
3. The proposed addition will be non-lakeside and not be visible to the lake.

4. The proposed residence expansion seems a reasonable use of the property when taking into account the configuration and placement of the residence which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
5. The proposed residence expansion reconfiguration, location and size will not be closer to Leech Lake and be a modest encroachment upon 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 and is made up of residences 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.
8. The setback will allow for routine maintenance activities.

NOTICE TO APPLICANT: If 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 expansion shall not vary from that submitted 08/07/14 but shall not be less than 8.5 feet from the closest property boundary line.

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. 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.
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 09/08/16.

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.

Reuter, Clarence, Woodrow Township on property described as part of SE NE, Section 18-140-29, PID #51-018-1402 located at 3789 Lost Lake Road NW. An application submitted to replace a non-conforming 16 feet x 22 feet guest house with 26 feet x 34 feet new construction guest house. The relevant portions of the Land Use Ordinance (02/15/13) are Section 1115.3 which establishes the non-conforming structure expansion/replacement criteria, 1126.5 which establish the guest quarters criteria and Section 800 which establishes the variance review criteria. The parcel contains 3.1 acres riparian to Lost Lake (NE).

39 notices of the application were mailed. No responses were received. The application was discussed and reviewed with Mr. Nistler.

MS/P Kostial/LaPorte to approve the application to replace and expand the non-conforming guest house located upon PID #51-018-1402 upon review of the criteria contained in Sections 800 and 1115.3 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 1967 and contains 3.1 acres.
2. The permit archive contains no record of the original construction of the guest house although it can be presumed that it occurred prior to the adoption of land use regulation.
3. The current guest house could be replaced at footprint and volume by permit.
4. The proposed guest house replacement will be setback 200 feet and not visible from the lake.
5. The proposed guest house replacement will contain 884 square feet as compared to maximum allowed of 900 square feet.
6. The proposed guest replacement seems a reasonable use of the property when taking into account the size and configuration of the lot along with the location of the guest house 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 proposed expanded guest house 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.

8. Because the applicant's proposed structure is not visible to adjoining property, there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed lot configuration.

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

NOTICE TO APPLICANT: If 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.

No site preparation or building construction shall be commenced until issuance of a land use permit. Commencement prior to issuance of a land use permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD and correction of violation of laws, 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 may be required by ESD.

Conditions:

1. The dimensions, location and configuration the new guest house expansion shall not vary from that submitted 08/19/14.
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. 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.
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 09/08/16.

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.

Schwartz, James, Hiram Township on property described as That Part of Lot 13 Lying S of N Line of 140-31, "Chariton Beach", Section 3-140-31, PID #16-346-0130 located at 4850 Hiram Loop Road NW. An application submitted to replace a 16 feet x 24 feet portion of a 30 feet x 52 feet non-conforming residence with a two floor addition. The application also calls for a two floor 16 feet x 24 feet x 2 feet L addition to the non-lakeside of the residence. The residence is non-conforming because it is located 36 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 .54 acre riparian to Ten Mile Lake (GD).

29 notices of the application were mailed. No responses were received. The application was discussed and reviewed with Mr. and Mrs. Schwartz.

MS/P Fitch/Kostial to approve the application to expand the non-conforming residence located upon PID #16-346-0130 upon review of the criteria contained in Sections 800 and 1115.3 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 was platted in 1941 and contains .94 acres.
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.
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 expansion will have any perceptible detrimental visual impact to Ten Mile Lake or neighboring property.
5. The proposed residence expansion is a reasonable use of the property when taking into account the location of the wetland, lot configuration and other residences which therefore does not necessarily contradict the purpose of the Land Use Ordinance which is to protect,

preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.

6. The configuration, location and size of the proposed expanded 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.

7. The neighboring area along Ten Mile Lake property contains similar lots and residence similar in scale therefore 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.

9. No part of the expansion will be closer to the lake than the existing residence.

NOTICE TO APPLICANT: If 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.

No site preparation or building construction shall be commenced until issuance of a land use permit. Commencement prior to issuance of a land use permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD and correction of any violation of laws, 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 may be required by ESD.

Conditions:

1. The dimensions, location and height to peak of the expansion shall not vary from that submitted 07/23/14.
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 09/08/16.

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).

Consideration of this application was tabled during the 08/11/14 meeting. 33 notices of the application were mailed for this meeting. No written responses were received. One person was in attendance and sited numerous grievances in regard to Mr. Thompson's application and his behavior in general. The application was discussed and reviewed with Mr. Thompson.

MS/P Kostial/Fitch to approve the application, after the fact, to allow the garage located at PID #36-030-1205 to remain at less than the required setback, 10 feet, from closest property boundary line based upon review of the criteria contained in Sections 800 and 115.3 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 applicant has acknowledged that the garage is less than 10 feet from the property boundary line.
2. The garage is screened and mostly unobservable from the lake and the adjacent neighbor.
3. The placement and location of the garage 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.

4. Although the garage is located at less than the required setback, it 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.

5. 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.

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

7. There is no evidence or indication that the applicant constructed the garage too close to the property in a surreptitious or devious manner or did not act in good faith.

8. There is no evidence or indication that the applicant did not attempt to comply with the ordinance.

9. Substantial investment has been made by the construction of an accessory/garage structure.

10. The accessory /garage structure construction is complete.

11. There are similar structures throughout the County.

12. Based upon these findings it seems that denial would not serve the interests of justice and reasonableness.

#### Conditions:

1. The applicant shall scour the denuded area and allow the forest undergrowth to re-emerge.

2. 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.

3. The applicant shall verify to ESD compliance with the requirements of staff member Robert Wright in reference to an in place lean-to structure and in place rip-rap.

Tokkesdal, Wayne & Sharon, Trelipe Township on property described as lot 10, Block 1, "Cedar Shadows", Section 5-140-27, PID #44-353-0120 located at 4609 East Shore Drive NE. An application submitted to expand an existing 24 feet x 40 feet non-conforming residence with a 10 feet x 24 feet addition. The residence is non-conforming because it is located 60 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 115.3 which established the non-conforming structure expansion/replacement criteria and Section 800 which establishes the variance review criteria. The parcel contains .7 acre riparian to Lake Inguadona (GD).



21 notices of the application were mailed. No responses were received. The application was discussed and reviewed with Mr. Tokkesdal.

MS/P LaPorte/Kostial to approve the application to expand the non-conforming residence located upon PID #44-353-0120 upon review of the criteria contained in Sections 800 and 1115.3 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 nothing in the permit archive for construction of the residence by a prior owner but it did occur prior to 1987 and it is 60 feet from the lake.
2. The proposed addition is modest and will be no closer to the lake than the existing residence.
3. There is nothing to indicate that the proposed residence expansion will have any perceptible detrimental visual impact to Lake Inguadona or neighboring property.
4. The proposed residence expansion is a reasonable use of the property when taking into account the location and wetland and other residences which therefore does not necessarily contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
5. The configuration, location and size of the proposed expanded 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.
6. The neighboring area along Lake Inguadona contains similar lots and residence similar in scale therefore 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 reason or evidence to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: If 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 height to peak of the expansion shall not vary from that submitted 08/20/14.
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 09/08/16.

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.

#### Conditional Use Permit

Hauser, Danny, Pine River Township on property described as NE NE Less the NE  $\frac{1}{4}$  Thrf, Section 28-130-30, PID #31-028-1100 located at 3641 16<sup>th</sup> Street SW. An application submitted to reclassify the parcel containing 30.29 acres from Agriculture/Forestry (AF) to Rural Residential - 10 (RR-10) which will reduce the minimum lot size from 40 acres to 10 acres. The relevant portions of the Land Use Ordinance (02/15/13) are Section 903 which establishes land use district, 1000 which requires a conditional use permit (CUP) for reclassification and Section 705 which establishes the CUP review criteria. The property contains 30.29 acres (AF).

40 notices of the application were mailed. No responses were received. The application was discussed and reviewed with Mr. Hauser.

MS/P LaPorte/Fitch to approve the CUP application as submitted to approve the reclassification of PID #31-028-1100 from AF to RR-10 based upon review of the criteria contained in the applicable portions of Sections 705, 903 and 1000 of the Land Use Ordinance (02/15/13) with the following findings and conditions:

Findings:

1. The property borders shoreland area (NE) in which the minimum non-riparian lot size is 2.75 acres and non-shoreland (RR-2.5) in which the minimum lot size is 2.5 acres.
2. Similar sized lots exist in the immediate area.
3. The 30 acres proposed for reclassification represents an insignificant portion of the total acreage of the township.
4. No responses or objections have been received from any persons or governmental entities notified of the application.
5. There is no reason to expect that one 10 acre parcel and one 20 acre parcel will cause adverse effects to adjoining property.
6. 10 acre minimum will have no impact to the demand for governmental services.
7. Existing roadways will be utilized with no need to expand exiting public infrastructure.
8. No wetland or critical habitat will be disturbed by reduction of minimum lot size.
9. No scenic or historic features will be affected by the reduction of minimum lot size.
10. No threat to public health, safety and welfare can be expected from a change to minimum lot size.
11. The total acres to be reclassified do not reach the mandatory EAW threshold.
12. There is no reason to expect that the reduced lot size will have any effect to surface water or ground water quality.

Condition:

1. The lot configuration shall not vary from submitted with the application 08/18/14.

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

Pine Point Estates Harbor Association Inc, Turtle Lake Township on property described as Common Area 1 & Part of Common Area 2 & All of Outlots A & B, Pine Point Estates & Part of Gov Lot 1, Section 31-143-30, PID #45-566-0020 located at 4441 Point Landing Drive NW. An application submitted for harbor maintenance/improvement that will include the movement of more than 50 cubic yards of earthen material within the shore impact zone 1 (SIZ-1) which is the area landward  $37\frac{1}{2}$  from the lake. The relevant portions of the Land Use Ordinance

(02/15/13) are Section 1106.2 which requires a conditional use permit (CUP) for the more than 50 cubic yards fill or excavation within SIZ-1 and Section 705 which establishes the CUP review criteria. The property is riparian to Leech Lake (GD).

81 notices of the application were mailed. One response of support for the application was received.

MS/P Kostial/Anderson to table consideration of the application until the 10/13/14 meeting in order for an applicant representative to be present.

Trails Park LLC, Shingobee Township on property as described as Part of SW NE, PID #38-105-1301, Section 5-142-31, located at 9424 State 371 NW. An application submitted to add 16 RV sites within an additional 10 acres added to the current lot configuration from an adjoining parcel. The proposed additional sites will result in the disturbance of 2.4 acres and will bring total number of sites to 110. Section 705 of the Land Use Ordinance (2013) establishes conditional use permit (CUP) review criteria and process. Section 1118 of the Land Use Ordinance (2013) establishes recreational vehicle park criteria. The property contains 27.44 acres non-riparian (RR-2.5).

78 notices of the application were mailed. One response from MN DOT offering no objection to the application was received. The application was reviewed with the applicant's representative Mr. Freeman.

MS/P Froehlig/Kostial to approve the application for expansion for the facility located upon 38-105-1301 based upon Section 705 and 1118 of the Land Use Ordinance with the following findings and conditions:

Findings:

1. The proposed site increase is compliant with the applicable density standards.
2. No wetland or critical habitat will be impacted by the expansion.
3. No scenic or historic features will be affected by the expansion.
4. No particular or specific threat to public health, safety and welfare has been noted by the current size and configuration or can be expected from expansion.
5. The expansion does not reach the mandatory EAW threshold.
6. The expansion will have no effect or impact to public infrastructure.

Conditions:

1. The expansion configuration shall be constructed as to the plan submitted 08/21/14.
2. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
3. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 09/08/16.

4. ESD shall approve/verify the requirement of any existing or planned run-off control measures.

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.

Weldon, James, Pine Lake Township on property described as Part of Gov Lot 3, Section 2-141-29, PID #30-002-1308 located at 550 Buffalohead Lane NW. An application submitted for run-off improvements that will include the movement of more than 200 cubic yards of earthen material within the shoreland area of the property. The relevant portions of the Land Use Ordinance (02/15/13) are Section 1106.2 which requires a conditional use permit (CUP) for the more than 200 cubic yards fill or excavation within the shoreland area and Section 705 which establishes the conditional use permit review criteria. The parcel contains 1.23 acres riparian to Leech Lake (RD).

30 notices of the application were mailed. No responses were received.

MS/P LaPorte/Kostial to table consideration of the application until the 10/13/14 meeting in order for the applicant or a representative to be present.

#### Final 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 final plat application submitted 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. Article 5 of the Cass County Subdivision and Platting Ordinance (02/15/13) establishes the final plat criteria and process. The preliminary plat was approved during the 07/21/14 meeting. The parcel contains 4.06 acres riparian to Webb Lake (RD).

63 notices of the application were mailed. No responses were received. The plat was reviewed with Mr. Haglund and Mr. Freeman.

MS/P Fitch/LaPorte to approve the final plat of "Bluewater on Webb" based upon compliance with Article 5 of the Subdivision and Platting Ordinance (02/15/13) and 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 final plat for compliance with Article 5 of the Subdivision & Platting Ordinance (03/09/09).
13. The plat does not reach the mandatory EAW/EIS review standards.

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 occupias 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. Resorts 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 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. Unless extended or revised by the Planning Commission this final plat approval shall be effective until 09/08/16.

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.

#### Other Business

Hear comments to and review/discuss Septage site and application section of the Individual Sewage Treatment System Ordinance. Mr. Rick Smith, Northland Septic Maintenance, and Carol Deck of the MPCA explained the requirements and procedures which govern septic tank pumping and land application. Several others in attendance spoke to their concerns as to potential environmental effects, truck traffic on the township road and lack of notification specific to the Lilyquist site in Trelipe Township. No action taken but consideration of the need for amendments to the SSTS Ordinance will be taken up during the next PC work session.

MS/P Fitch/Froehlig at 4:35 pm, to adjourn.

P. Fairbanks