



Cass County
Planning Commission/Board of Adjustment

August 10, 2015

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting August 10, 2015 in the meeting room of the Cass County Land Department in Backus. The field inspections for the meeting were August 3 and August 4, 2015 with PC members Fitch, La Porte, Moore, Pehling and Sundberg along with ESD staff Berg, and Fairbanks in attendance.

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

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

Staff Present: Berg, Fairbanks and Ringle.

Citizens Present: Cindee Anderson, Mark Anderson, Sue Anderson, Tim Anderson, Warren Anderson, Ed Benz, Marilynn Davis, Todd Elison, Terry Freeman, Doug Hansen, Edin Hansen, Mark Hartwig, Mary Hartwig, Loren Henke, Roxy Henke, Dave Johnson, Douglas M. Johnson, Steven G. Johnson, Tom Lindquist, Richard Luoma, Tom Lund, Bart McNab, Shane Mindak, Beth Peters, John Peters, Jeff Peterson, Jason Raasch, Melissa Raasch, Shirley Schaefer, Jed Shaw, Jeanne Scholle, Stephen Scholle, Blake Shelton, Jason Strom and Bart Thomas.

MS/P Moore/LaPorte to approve the minutes of the 06/08/15 PC/BOA meeting as revised and presented.

Variance

Anderson, Mark, Shingobee Township on property owned by Bates, Loren & Catherine described as Part of Govt Lot 1, Section 16-142-31, PID #38-116-2104 located at 8738 Walker Bay Drive NW. An application submitted to construct an 81 feet x 40 feet residence/deck to be located 50 feet from the lake and a 32 feet x 28 feet garage to be located 60 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) are Section 800 which establishes the variance criteria and Section 1126.1 which requires structures to be setback 75 feet from a lake classified General Development (GD). The parcel contains .58 acre riparian to Leech Lake (GD).

PC members were at the site 08/03/15. 55 notices of the application were mailed. Three responses were received with one from the Leech Lake Association opposed to approval. The application was reviewed and discussed with Cindee Anderson, Mark Anderson, Terry Freeman and Jed Shaw.

MS/P Pehling/Froehlig to approve the application as submitted for a closer lake setback for the residence and detached garage to be located upon PID #38-116-2104 upon review of the criteria contained in Section 800 and 1126.1 A 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 1990, contains .58 acre and is undeveloped.
2. The lot measures from 100 feet to 190 feet from lake to rear lot line limits structure and SSTS placement options based upon lake setback for SSTS of 50 feet, structure of 75 feet and lot boundary line of 10 feet.
3. The proposed impervious coverage of the residence and accessory structure, 2,837 square feet, not including driveway or other surfaces will be 11%.
3. The location of the SSTS mound prohibits placement of the new construction at the required lake setback.
4. The proposed lake setback is equal to that of the neighboring residences.
5. Based upon lot size and configuration, the proposed lake setback will not noticeably alter the view of the residence from the lake which seems reasonable when taking into account the proposed configuration 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. The proposed residence configuration, based upon lot size and configuration to which there is no information to establish that it will 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 along Leech Lake contains similar lots with residences of similar size and scale to which there have been no facts or information to establish that there is a reason to conclude that neighboring land use will be negatively affected or altered by the proposed construction.
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, restoration or no mow 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:

1. The dimensions, location and configuration of the proposed structures shall not vary from that submitted 07/23/15 unless approved by ESD or if necessary, the PC/BOA.
2. The height to peak of the residence shall not exceed 30 feet.
3. The height to peak of the accessory structure garage shall not exceed 24 feet.
4. The upper level of the accessory structure shall not be used for living quarters.
5. Any material resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
6. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
7. 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.
8. Applicant consents to inspection of the property by ESD to verify compliance with conditions.
9. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 08/10/17.
10. As agreed by the applicants, the two existing sheds shall be removed from the property prior to the commencement of construction.

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

Benz, Scott, Woodrow Township on property described as West 40 Feet of Lot 8, Block 3, "Tuslers Park", Section 9-140-29, PID #51-386-0330 located at 4263 Baby Lake Trail NW. An application submitted for "holding tank" to be located 30 feet from the OHWL of Baby Lake. The relevant portions of the Land Use Ordinance (02/15/13) are Section 800 which establishes the variance criteria and Section 1126.1 which requires Subsurface Sewage Treatment System (SSTS) to be setback 75 feet from a lake classified Recreational Development (RD). The parcel contains .13 acre riparian to Baby Lake (RD).

PC members were at the site 08/04/15. 43 notices of the application were mailed with no responses received. One person appeared at the hearing to voice his support of the application. The application was discussed and reviewed with the applicant's representative Ed Benz.

MS/P Moore/LaPorte to approve the application for the location of the holding tank as submitted for PID #51-386-0330 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 1919 and contains .13 acre.
2. The proposed holding tank location will not alter the view of the residence from the lake and is reasonable when taking into account the size of the property, the configuration and the location 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.
3. The proposed holding tank location will not alter the use of the property to which there is nothing to establish that it will contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
4. The surrounding area contains similar small lots, residences and accessory structures located at generally similar setbacks to which there is nothing to conclude that area land use will be negatively affected or altered by the proposed construction.
5. The holding tank will bring the property into SSTS compliance and prevent a potential threat to public health and safety.
6. 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, restoration or no mow 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:

1. The location of the holding tank shall not vary from that submitted 07/17/15 unless approved by ESD or if necessary, the PC/BOA.
2. 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.
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 by ESD to verify compliance with conditions.
5. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 08/10/17.

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.

Hansen, Doug & Edin, Wabedo Township on property described as Part of Govt 1, Section 22-140-28, PID #46-022-2110 located at 1471 Lazy Boy Lane NE. An application submitted to replace two residential structures with a 40 feet x 44 feet two story residence to be located 74 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) and Section 800 which establishes variance review criteria. The property contains two acres riparian to Little Boy Lake (RD).

PC members were at the site 08/04/15. 38 notices of the application were mailed. One response of no objection to the application but questioning the effect of approval on a local easement, none and one response from Wabedo Township recommending denial of the application were received. The application was reviewed and discussed with the applicants' representative, their contractor Mr. Elison.

MS/P Moore/Fitch to table consideration of the application until the 09/14/15 meeting in order for Mr. Elison to consult with his client on possible placement options.

Henke, Lorren, Shingobee Township on property described as Lot 2, Block 1, "Journey's End", Section 1-141-31, PID #38-337-0130 located at 7079 Heath Trail NW. An application

submitted to replace the existing residence with new construction consisting of a 40 feet x 40 feet two story residence, a 16 feet x 16 feet porch and a 12 feet x 40 deck located 49 feet from the lake the closest point. 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 .67 acre riparian to Leech Lake (GD).

PC members were at the site 08/03/15. 44 notices of the application were mailed with one response objecting to approval of the application received from the Leech Lake Association. The application was discussed and reviewed with the applicants and their contractor Mr. Strom.

MS/P Moore/Fitch to deny the application for expansion of the non-conforming residence 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. "Journeys End" was platted in 1977 and the lot area less the neck that extends to the platted road extends from the lake 200 - 210 feet and is 130 feet wide at the point which provides for opportunity to locate new construction at the required lake setback.
2. Removal of the existing residence provides an opportunity to also remove the odd angle placement garage and replace with an attached garage which would increase functionality.
3. As allowed by ordinance and statute, the residence can be replaced at existing setback, footprint and volume by permit.

Johnson, Douglas, Shingobee Township on property described as Govt Lot 1 Less South 667 Feet Thereof, Section 22-141-31, PID #38-025-2100 located at 5651 Bearberry Trail NW. An application submitted to be allowed to utilize Recreational Development (RD) riparian lot standards. The applicant proposes to divide the property into three lots, North Tract, Middle Tract and the South Tract. The South Tract would contain 159,479 square feet total area, 6,336 square feet buildable area and comply with the lot width standards of 150 feet as approved by VP13-141-31-2. The structure setback from Portage Lake (RD) for the proposed South Tract is requested to be 75 feet. The relevant portions of the Land Use Ordinance (02/15/13) include Section 800 which establishes the variance standards and Section 1126.1 which requires structures to be setback 100 feet from a lake classified Recreational Development (GD). The parcel consists of an isthmus which contains 7.65 acres riparian to Portage Lake (RD) and unnamed wetland (NE). The primary use of the property is to Portage Lake (RD).

PC members were at the site 08/04/15. 12 notices of the application were mailed with no responses were received. The variance request was reviewed and discussed with Mr. Johnson.

MS/P LaPorte/Froehlig to approve the application for a structure setback from Portage Lake to be not less than 75 feet from the OHWL for the proposed South Tract upon review of the

criteria contained in Section 800 of the Land Use Ordinance (01/10/10) and in M.S. 394.27, Subdivision 7 with the following findings and conditions.

Findings: 75 feet structure setback from Portage Lake (RD) for proposed South Tract.

1. The property became a lot of record in 1966 which was prior to the adoption of land use regulation.
2. The primary focus and use of the property will be toward Portage Lake.
3. The proposed residence(s) for the North Tract and Middle Tract will comply with the required setback of 100 feet from Portage Lake.
4. There is no access from the wetland to Portage Lake.
5. The proposed residence for the South Tract seems a reasonable use of the property when taking into account the configuration of the lot in relationship to the lake and wetland along with the proposed location of the residence which 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. A residence will not necessarily be excessive of scale or obtrusive to neighboring property which therefore does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
7. Because access to the area terminates at the North Tract, the surrounding area will contain no more than three residences therefore there is no reason to conclude that area land use will be negatively affected or altered by application approval.
8. There is no reason to conclude that financial consideration is the sole reason for the application.
9. Because the surrounding area contains residences similar in size and scale, there is no reason to conclude that area land use will be negatively affected or altered by the size or location of the proposed residence.
10. There is no reason to conclude that water quality will be in any way affected by the size or location of the proposed expansion.
11. No responses or objections have been received from any persons or governmental entities notified of the application.

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

1. ESD required and approved erosion control is installed.
2. A written plan for suitable vegetation is approved by ESD and agreed to be implemented by applicant.

3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other conditions as set forth.

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

Conditions:

1. The South Tract residence shall not be located less than 75 feet from Portage Lake and not less than 50 feet from the unnamed NE wetland.
2. Any material/debris 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. No run-off to the lake or adjoining properties is permitted. The approved structure if determined necessary by ESD shall redirect run-off and if needed water retention structures such as rain gardens shall be installed to retain structure run-off and prevent run-off to the lake and adjoining properties.
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 08/10/17.

McNabb, William, Wabedo Township on property described as Lot 19, "Wabedo Springs", Section 33-140-28, PID #46-483-0192 located at 944 Wabedo Springs Road NE. An application submitted to expand a non-conforming residence by increasing the height to peak from 13 feet to 21 feet in order to add upper level living space. The residence is non-conforming because it is located 83 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) are Section 800 which establishes the variance criteria, Section 1115.3 which establishes the non-conforming structure expansion criteria and Section 1126.1 which requires structures to be setback 100 feet from a lake classified Recreational Development (RD). The parcel contains .3 acre riparian to Wabedo Lake (RD).

PC members were at the site 08/04/15. 35 notices of the application were mailed. One response from the Wabedo Township Planning Commission endorsing approval of the application was received. The application was discussed and reviewed with Mr. McNab.

MS/P LaPorte/Fitch to approve the application as submitted to expand the non-conforming residence located upon PID #46-483-0192 as submitted 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 1927.
2. There is no record in the permit archive as to the original construction although it obviously precedes the adoption of land use regulation.
3. The proposed expansion will not increase the footprint, be modest of size and will not noticeably alter the view of the residence from the lake which therefore seems reasonable when taking into account the setback and configuration 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.
4. The proposed expansion will not affect the current lake setback and not noticeably alter the view of the property from the lake which therefore seems reasonable when taking into account the setback and configuration 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 area along Wabedo Lake contains similar lots and structures to which there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed construction.
6. 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, restoration or no mow 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:

1. The dimensions, location and configuration of the residence expansion shall not vary from that submitted 07/23/15 unless approved by ESD or if necessary, the PC/BOA.
2. The height to peak shall not exceed 26 feet.
3. 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".
4. Any material resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
5. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
6. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
7. Applicant shall consent to inspection of the property 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 08/10/17.

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.

Mindak, Kim, Ottertail Peninsula Township on property described as Lot 8, Block 1, "Ni Gig Wah Noe Shores", Section 14-143-30, PID #28-374-0116 located at 10954 Ottertail Point Drive NW. An application submitted to construct a 34 feet x 44 accessory structure with upper level living area. It is intended that the applicant will eventually construct a primary residence and retain this proposed structure as guest quarters. The property does not meet the minimum lot standards for guest quarters. In addition the proposed structure will measure 28 feet to peak which will exceed maximum height to peak for guest quarters which is 24 feet and exceed the maximum structure footprint allowed based upon lot size 1,200 square feet by 384 square feet. The proposed structure will comply with applicable setback requirements. The lot is 168 feet wide at the shoreline, 168 feet wide at the structure setback and contains 35,719 square feet total and buildable area. The relevant portions of the Land Use Ordinance (02/15/13) are Section 1113.1 which requires a riparian guest quarters lot located at a General Development (GD) lake to contain 75,000 square feet total area, 27,000 square feet buildable area and be 180 feet at the water and structure setback, Section 1126.5 which establishes 24 feet as the maximum height to peak allowed for guest quarters at 24 feet, Section 1001 which establishes

accessory structure size limits and Section 800 which establishes variance review criteria. The parcel contains .82 acres riparian to Leech Lake (GD).

PC members were at the site 08/03/15. 29 notices of the application were mailed with no responses received. The application was discussed and reviewed with the applicant's son Mr. Mindak.

MS/P LaPorte/Fitch to approve the application as submitted to approve guest quarters to be placed upon PID #28-374-0116 upon review of the criteria contained in Sections 800, 1113.1 and 1126.2 of the Land Use Ordinance (02/15/13)) along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. The proposed accessory structure/garage/guest quarters will result in no increase of the number of structures to be located on the property.
- 2 The proposed living area will comply with the 900 square feet maximum allowed for guest quarters living area.
3. The proposed structure will comply with applicable setback requirements and will not significantly affect the view of the property to the lake which is reasonable when taking into account the current level of development in the area and configuration 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.
4. The living area within proposed accessory structure/garage will not alter the use of the property to which there is no evidence or information to establish that it will 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 in the plat is mostly undeveloped and the area along Leech Lake consists of similar lots, residences and accessory structures located at generally similar setbacks to which there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed construction.
6. 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, restoration or no mow 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:

1. The dimensions, location and configuration of the proposed accessory structure/garage/guest quarters shall not vary from that submitted 07/23/15 unless approved by ESD or if necessary, the PC/BOA.
2. The dimensions, location and configuration of the area utilized for living area within the accessory shall not vary from that submitted 06/25/15.
3. The height to peak shall not exceed 28 feet.
4. The guest quarters shall not be rented or sublet separately from the primary residence.
5. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
6. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
7. Applicant consents to inspection of the property 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 07/13/17.

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.

Raasch, Jason & Melissa, Loon Lake Township on property described as South 495 Feet of SE SE, Section 31-136-29, PID #22-031-4402 located at the NW corner of the junction of 72nd Street SW and 17th Avenue SW. An application submitted to be allowed to develop .5 acre lots for the purpose of developing a 12 unit storage building plat. The relevant portions of the Land Use Ordinance (02/15/13) include Section 800 which establishes the variance standards and Section 1113.1 which requires a General Development (RD) non-riparian lot to contain 1.15 acres. The property contains 15 acres non-riparian within the shoreland area, 1,320 feet, of Sibley Lake (GD).

PC members were at the site 08/04/15. 37 notices of the application were mailed. Two written responses opposed to approval of the application were received. In addition, several persons appeared to express their concern and unhappiness with the applicants' intention to establish a storage unit plat upon the property. The application was discussed and reviewed with the applicants. The board along with those in attendance discussed the proposed storage building land use, traffic, building lighting, building location, building size and potential outdoor storage.

MS/P Froehlig/LaPorte to approve .5 acre lot size for the as designated 10 acre portion of PID #22-031-4402 upon review of the criteria contained in Sections 800 and 1113.1 of the Land Use Ordinance (02/15/13) along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. There is nothing to indicate that the proposed lot size and subsequent storage structure development will have detrimental visual or other impact to neighboring 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.
2. The proposed project requires CUP approval of reclassification to C-2 and the proposed storage structure land use in order to proceed.
3. There are larger storage structures located on directly adjoining property to the north as well as similar structures spread throughout the neighboring area to which the proposed lot size structures will be unobtrusive 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 consists of a rural suburban type development evolving from one that was once primarily agricultural related to which there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed lot use.
6. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

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 of the development must be approved by CUP and plat prior to any site alteration or construction.
2. Erosion control shall be reviewed and approved through the SWPPP and CUP process.
3. 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.
4. Applicant shall consent to inspection of the property by ESD to verify compliance with conditions.
5. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 08/10/17.

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.

Scholle, Stephen, Rogers Township on property described as Part of Govt Lot 7, Section 29-142-27, PID #36-029-3304 located at 2818 South Bay Lake Drive NE. An application submitted to be allowed, in conjunction with new residence construction, to be allowed to retain other residences located on the property. The property currently contains three residential structures, the applicant proposes to remove one residence and one accessory structure/garage and replace with one new residence and retain the remaining two and maintain the total of three on the property. The relevant portions of the Land Use Ordinance (02/15/13) are Section 800 which establishes the variance criteria and Section 1120 which sets forth that all lots unless otherwise designated are considered single family residential. The property contains 9.18 acres riparian to Boy Lake (GD).

PC members were at the site 08/04/15. 11 notices of the application were mailed with no responses received. The application was discussed and reviewed with the applicant's representative the Jeanne and Stephen Scholle.

MS/P LaPorte/Froehlig to approve the application to approve new construction and allow the location of three residential structures at PID #36-029-3304 upon review of the criteria contained in Sections 800 and 1120 of the Land Use Ordinance (02/15/13) along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. The property became of record in 1949 and contains 9 acres and was formerly was or was part of a resort.
2. There is no record in the permit archive as to the original construction of the existing residence although it obviously preceded land use regulation.

3. The proposal calls for the removal of an existing residence and detached garage with new construction of one structure at the lake setback of the existing residence which is more than 100 which will not alter the view from the lake which seems reasonable when taking into account the current setback and configuration 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.

4. Based upon lot size lot configuration and use, the proposed new construction to which there is no evidence or information to establish that it will 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 lot and structures are mostly unobservable from surrounding properties, there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed construction.

6 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, restoration or no mow 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:

1. The dimensions, location and configuration of the new construction shall not vary from that submitted dated 07/23/15 unless approved by ESD or if necessary, the PC/BOA.
2. The height to peak of the new construction shall not exceed 28 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 shall consent to inspection of the property 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 08/10/17.

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.

Shelton, Blake, Shingobee Township on property described as E 10 Feet of Lot 7 & All Lot 8, "Chariton Beach", Section 3-140-31, PID #16-346-0072 located at 5793 White Spruce Lane NW. An application submitted to remove the existing residence and replace with 34 feet x 64 feet new construction with an 8 feet x 20 feet deck or patio to be located 32 feet from the lake at the closest point. The relevant portions of the Land Use Ordinance (02/15/13) are Section 800 which establishes the variance criteria and Section 1126.1 which requires structures to be setback 75 feet from a lake classified General Development (GD). The parcel contains one acre riparian to Ten Mile Lake (GD).

PC members were at the site 08/04/15. 38 notices of the application were mailed with no responses received. The application was discussed and reviewed with Mr. Shelton.

MS/P Moore/Pehling to approve the application as submitted for the location of the residence to be located upon PID #16-346-0072 upon review of the criteria contained in Sections 800 and 1126.1 of the Land Use Ordinance (02/15/13) along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. The property was platted in 1941.
2. There is no record of construction of the current residence although it was obviously prior to land use regulation.
3. The steep slope that begins about 75 feet from the lake prohibits any other placement options.
4. The proposed location along with the lack of options 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 structure will be modest of size and height to which there is no evidence or information to establish that it will contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.

6. There is no reason 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, restoration or no mow 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:

1. The dimensions, location and configuration of the structure shall not vary from that submitted 07/22/15 unless approved by ESD or if necessary, the PC/BOA.
2. The height to peak shall not exceed 20 feet.
3. The patio must be constructed of pervious materials with configuration and construction design approved by ESD.
4. Any material resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
5. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
6. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.

7. Applicant shall consent to inspection of the property 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 08/10/17.

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.

Schut, Beth, Sylvan Township on property described as Part of Govt Lot 6, Section 2-133-30, PID #41-202-3102 located at 12272 West Sylvan Road SW. An application submitted, "after the fact", to be allowed to retain a 10 feet x 34 feet boat canopy structure located above a track system located 7 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) are Section 800 which establishes the variance criteria and Section 1126.1 which requires structures to be setback 75 feet from a lake classified General Development (GD). The parcel contains .96 acre riparian to Sylvan Lake (GD).

PC members were at the site 08/04/15. 27 notices of the application were mailed with two responses including that of Sylvan Township recommending denial of the application were received. The application was discussed and reviewed with the applicant and her husband Mr. Peters.

MS/P Fitch/Moore to deny the application to allow the boat enclosure to remain at PID #41-202-3102 at less than 75 feet from Sylvan Lake 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 Statsvold Decision with the following findings:

Findings:

1. The structure was placed upon the property without consultation with ESD and sans permit.
2. New boathouses are not permitted by the Land Use Ordinance.
3. The boat shelter could have been located on the property with a Land Use Permit at 75 feet from the lake.
4. The application does not articulate a position or information to establish that the placement of the boat shelter 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. No information or evidence has been presented that the placement of the boat shelter 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 new boathouse/shelter are not allowed there is no information or evidence to conclude that area land use will not be affected or altered by the placement of the boat shelter.

"Statsvold" - After the Fact Factors/All Must be met in order to approve:

7. There is no evidence or information to determine whether the applicant acted in good faith.

8. Failure to contact ESD in regard to the boat shelter established that the applicant did not attempt to comply with the ordinance.

9. Based upon the value of the lot and residence, it does not seem that as a portion of value, that the applicant has already made a substantial investment.

10. The placement of the boat shelter is complete

11. There are no similar structures in the area.

12. The County and the State's no longer permit new boathouses/shelters and the benefits of such a policy are not outweighed by the applicant's burden if the applicant were required to comply with the ordinance.

Conditions:

1. The applicant must confirm to ESD no later than 10/01/15 the removal of the boat shelter from the property or to a point 75 feet from the lake.

2. The applicant shall obtain a Shoreland Alteration Permit to retain the tracks and/or move the shelter to lake setback.

Conditional Use Permit

Anderson, Tim/Spirit of the North Resort, Turtle Lake Township on property described as Part of East 320 Feet of Govt Lot 6 & Part of E 320 Feet NW SE, Section 35-142-30, PID #45-135-1405 located at 7418 Smokey Point Road NW. An application submitted for harbor excavation. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1106.5 which establishes harbor construction criteria and Section 705 which establishes conditional use permit review criteria. The resort contains 16.9 acres riparian to Leech Lake (GD).

PC members were at the site 08/03/15. 49 notices of the application were mailed. Two responses favoring approval of the application along with one from the Leech Lake Association objecting to approval of the application were received. In addition, several persons appeared at the hearing to voice their unhappiness with the notification process. The application was reviewed and discussed with Sue and Tim Anderson.

MS/P LaPorte/Pehling to approve the application as submitted for the harbor expansion for Spirit of the North Resort at PID #45-1351405 based upon review of the criteria contained in Sections 705 and 1106 of the Land Use Ordinance (02/15/13) along with M.S. 394.301 with the following findings and conditions:

Findings:

1. The harbor to be enlarged currently provides mooring and lake access for the resort.
2. The harbor enlargement will not extend further lake-ward than that of the current harbor.
3. The DNR, Permit #1994-1255, has approved the project excavation and 16 slips
4. Cass County policy is that of support of the resort industry to thrive by reasonable ordinance development and administration that protect natural resources as well allow for healthy resorts.
5. Resort, boats, boat trailers and water recreation whether commercial or residential are integral to the culture and environment of Cass County and northern Minnesota.
6. No evidence or documentation has been submitted to verify the property values in the area might be affected.
7. There is no evidence to conclude that over the years of operation that the resort has adversely affected neighboring property.
8. An existing township road that will not require expansion or reconfiguration is utilized.
9. No wetland or critical habitat will be disturbed by the project.
10. No scenic or historic features will be affected by the project.
11. No threat to public health, safety and welfare can be expected from the project.
12. Approval will not contradict the purpose of the official controls which are 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.
13. The project 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 plan and specifications submitted 07/23/15 are approved for implementation.
2. Financial assurance for the project must be submitted to ESD prior to the commencement of construction.
3. US ACOE approval must be submitted to ESD prior to the commencement of construction.
4. A Shoreland Alteration Permit must be obtained for the spoil deposit area.
5. The resort must establish a designated boat trailer parking area.
6. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
7. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 08/10/17.

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.

Fischer, Ryan, Loon Lake Township on property described as Part of W $\frac{1}{2}$ of SE SE, Section 16-136-29, PID #22-016-1405 located at 5718 Sibley Lake Road SW. An application submitted to locate a duplex residential structure on the property. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1121 which requires a conditional use permit to locate and construct a duplex residential structure and Section 705 which establishes the conditional use permit review criteria. The parcel is contains 1.5 acres non-riparian within the shoreland area, .25 mile, of Mayo Creek (TR).

PC members were at the site 08/04/15. 54 notices of the application were mailed with no responses received. The application was reviewed and discussed with Mr. Fischer.

MS/P LaPorte/Pehling to approve the application as submitted for the duplex residence to be located at PID #22-016-1405 based upon review of the criteria contained in Sections 705 and 1121 of the Land Use Ordinance (02/15/13) and in M.S. 394.301 with the following findings and conditions:

Findings:

1. The duplex will improve and replace a formerly dilapidated situation and improve housing stock in the neighborhood.
2. The applicant/owner resides in directly adjacent property.
3. No evidence or documentation has been submitted to verify the property values in the area might be affected.
4. An existing township road that will not require expansion or reconfiguration is utilized.
5. No wetland or critical habitat will be disturbed by the project.
6. No scenic or historic features will be affected by the project.
7. No threat to public health, safety and welfare can be expected from the project.
8. Approval will not contradict the purpose of the official controls which are 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.
9. The project 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 plan and specifications submitted 07/23/15 are approved for implementation.
2. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 08/10/17.

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 Govt Lot 1, Section 21-143-31, PID #20-016-3004, Part of SW SW, Section 16-143-31 & Part of Govt Lot 1, Section 21-143-31, PID #20-016-3005 & Part of Govt Lot 5 & Part of SW SW, Section 16-143-31 & Part of Govt Lot 1, Section 20-143-31, PID #20-016-4203 located at 10904 Steamboat Loop NW. An application submitted for harbor excavation. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1106.5 which establishes harbor construction criteria and Section 705 which establishes conditional use permit review criteria. The resort contains 16.24 acres riparian to Leech Lake (GD).

PC members were at the site 08/03/15. 74 notices of the application were mailed. Two responses were received. The application was reviewed and discussed with Mr. Jacobson.

MS/P LaPorte/Pehling to approve the application as submitted for the harbor to be located at Hiawatha Beach Resort based upon review of the criteria contained in Sections 705 and 1106 of the Land Use Ordinance (02/15/13) and in M.S. 394.301 with the following findings and conditions:

Findings:

1. The harbor will provide safe mooring and lake access for the resort.
2. The DNR, Permit #2015-1122, has approved the project excavation and slip configuration.
3. Cass County policy is that of support of the resort industry to thrive by reasonable ordinance development and administration that protect natural resources as well allow for healthy resorts.
4. Resort, boats, boat trailers and water recreation whether commercial or residential are integral to the culture and environment of Cass County and northern Minnesota.
5. No evidence or documentation has been submitted to verify the property values in the area might be affected.
6. There is no evidence to conclude that over the years of operation that the resort has adversely affected neighboring property.
7. An existing county road that will not require expansion or reconfiguration is utilized.
9. No wetland or critical habitat will be disturbed by the project.
10. No scenic or historic features will be affected by the project.
11. No threat to public health, safety and welfare can be expected from the project.
12. Approval will not contradict the purpose of the official controls which are 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.
13. The project 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/Approve:

1. The plan and specifications submitted 07/23/15 are approved for implementation.
2. Financial assurance for the project must be submitted to ESD prior to the commencement of construction.
3. US ACOE approval must be submitted to ESD prior to the commencement of construction.
4. A Shoreland Alteration Permit must be obtained for the spoil deposit area.
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. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 08/10/17.

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.

Sandy Pines Resort, Powers Township on property described as Part of Govt Lot 2, PID #34-024-2216, Part of Govt Lot 2, PID #34-024-2217 and Part of Lot 5 & All of Lots 6-9, "Echo Hill", PID #34-427-0051, All in Section 24-139-30 located at 2738 Raven Lane NW. An application submitted to reclassify PID #34-024-2204 which contains 2.19 acres from Shoreland Residential (SR) to Water Oriented Commercial (WOC) in order to add the property to the resort. In addition the application includes a request to be approved for 8 additional campground sites. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1000 which establishes land use districts, Section 1104.9 G. which establishes resort density standards and Section 705 which establishes the conditional use permit review criteria. The parcel is contains 7.83 acres riparian to Big Portage Lake (GD/WOC).

PC members were at the site 08/04/15. 39 notices of the application were mailed. Three responses favoring approval and four responses recommending denial were. In addition, several persons appeared at the hearing to accuse resort guests of disturbing loon nests, trespass long with various potential negative impacts to peace and tranquility. The application was reviewed and discussed with Mr. Reupert.

MS/P Moore/LaPorte to approve the reclassification of PID #34-024-2204 from Shoreland Residential (SR) to Water Oriented Commercial (WOC) based upon review of the criteria contained in Sections 705 and 1000 of the Land Use Ordinance (02/15/13) and in M.S. 394.301 with the following findings and condition:

Findings:

1. The area proposed for reclassification is directly adjacent to the resort and meets the criteria for WOC, "The purpose of this district is to accommodate commercial uses in the

shoreland zone where access to and use of a surface water area are integral part of the business”.

2. Cass County policy is that of support of the resort industry to thrive by reasonable ordinance development and administration that protect natural resources as well allow for healthy resorts.
3. Resorts and water recreation are integral to the culture and environment of Cass County and northern Minnesota.
4. No evidence or documentation has been submitted to verify the property values in the area might be affected.
5. There is no evidence to conclude that over the years of operation that the resort has adversely affected neighboring property.
6. Existing county and township roadways that will not require expansion or reconfiguration are utilized.
7. No wetland or critical habitat will be disturbed by the proposed land use.
8. No scenic or historic features will be affected by the proposed land use.
9. No threat to public health, safety and welfare can be expected from the proposed land use.
10. Approval will not contradict the purpose of the official controls which are 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.
11. 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.

Condition:

1. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 08/10/17.
2. Supplemental information as established in Section 1104 of the Land Use Ordinance must be submitted in or to evaluate the request for increase RV sites.

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

MS/P Pehling/Fitch to revise as requested by ESD RP05-144-31-1 to include PID #49-023-3204.

MS/P Froehlig/Fitch at 4:00 pm, to adjourn.

P. Fairbanks