



Cass County  
Planning Commission/Board of Adjustment

September 14, 2015

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting September 14, 2015 in the meeting room of the Cass County Land Department in Backus. The field inspections for the meeting were September 8, 2015 and September 9, 2015 with PC members Fitch, Froehlig, Kostial, La Porte, Moore, Pehling and Sundberg along with ESD staff Berg, and Fairbanks in attendance.

Sundberg called the meeting to order at 9:33 a.m.

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

Staff Present: Berg, Fairbanks and Ringle.

Citizens Present: Christine Albertson, Richard Anderson, Mike Bohanan, Juliann Brunzell, Audra Carlson, Darcy Catlett, Renee Eidem, Brent Foster, Kathy Froehlig, Bonnie Fromm, Arlen Johnson, Sheila Johnson, Nan Ladehoff, Kevin Lerdon, Maggie McGee, Rob Nelson, Doug Payne, Jeff Peterson, Dan Pflugshaupt, Jason Raasch, Melissa Raasch, Richard Request, Craig Smith, Michele Smith, Charlene Welu, Paul Welu, Albert Wiener, Brenda Wiener, Jim Williams, Ken Wilson and Terri Wilson.

MS/P LaPorte/Froehlig to approve the minutes of the 08/10/15 PC/BOA meeting as revised and presented.

Variance

Brunzell, Juliann, Hiram Township on property described as Part of Govt Lot 3, Section 10-140-31, PID #16-010-3101 located at 4143 Forseman Point Drive NW. An application submitted to be allowed to retain one of two existing residences as guest quarters with the smaller residence to be removed from the property. The lot which contains 60,900 square feet and is 150 feet wide at the ordinary high water level (OHWL) and the structure setback of 75 feet does not comply with the minimum guest quarters lot size standards. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1113. 1 which requires a guest quarters lot riparian to a General Development (GD) lake to contain 75,000 square feet total area, 27,000 square feet buildable area and be 180 feet wide at the OHWL and at the structure setback of 75 feet and Section 800 which establishes the variance review criteria. The property contains 1.4 acres riparian to Ten Mile Lake (GD).

PC members were at the site 09/08/15. 36 notices of the application were mailed. One response, recommending approval was received. Ms. Brunzell along with her architect Ms. Albertsson explained and discussed the application.

MS/P Froehlig/Kostial to approve the application as submitted to remove one existing non-conforming residence with construction of a new residence located at applicable setbacks upon PID #16-010-3101 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 1968 prior to the adoption of land use regulation and the guest quarters lot standards.
2. The lot contains 81.2% of the required total area 100% of the required buildable area and 83.3% of the required lot width.
3. There is no record in the permit archive as to the original construction of the existing residences although it obviously preceded land use regulation.
4. The proposal calls for the removal of the smaller existing residence with new construction at the required setback which will not alter the view from the lake which seems reasonable when taking into account current setback and configuration 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. There will be no net increase in the number of structures upon the property and there is no information or evidence that the based upon lot size, lot configuration and use, the proposed new construction 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. 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.
7. The residence that will be designated as guest quarters does not exceed 900 square feet or 24 feet to peak as required as required by ordinance.
8. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
9. The new construction will meet setback requirements and will encroach less to the lake setback than the structure to be removed.
10. The topography of the lot, including the existing historical ice ridge, is such that run-off to the lake from impervious surfaces is, and will continue to be minimal with basic mitigation measures.

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 08/25/15 unless approved by ESD or if necessary, the PC/BOA.
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 shall consent to inspection of the property 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 09/14/17.

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.

Carlson, Audra, Ponto Lake Township on property described as Part of Govt Lot 10, Section 15-139-29, PID #32-015-4402 located at 1277 Indian Point Trail NW. An application submitted to be allowed, "after the fact" to retain an existing 10 feet x 18 feet shed constructed and located

sans permit which is 19 feet from the ordinary high level of Two Lake (NE). 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) and Section 800 which establishes the variance review criteria. The property contains .23 acre and is riparian to Hand Lake (RD) and Two Lake (NE).

PC members were at the site 09/09/15. 24 notices of the application were mailed. Three responses all opposed to approval of the application were received. Ms. Carlson was present her application and to explain and defend her actions.

MS/P Moore/Kostial to approve the retention of the new accessory structure/storage construction for PID #32-015-4402 upon review of the criteria contained in Sections 800 and 1115.3 of the Land Use Ordinance (02/15/13), M.S. 394.27, Subdivision 7 and the "Statsvold" decision with the following findings and conditions:

Findings:

1. The structure was placed upon the property without consultation with ESD and sans permit.
2. The property became of record in 1963 and contains .23 acre.
3. The property is an isthmus between two lakes on which the respective setbacks overlap.
4. The condition of the existing non-conforming screened structure indicates that it has been on the property for many years.
5. Replacement of a non-conforming structure is allowed by statute and ordinance therefore such action, with permit, 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. Replacement of non-conforming structure is allowed by statute and ordinance therefore such action, with permit, 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 information or evidence to conclude that area land use will be affected or altered by the placement of an existing accessory structure.

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

8. There is no evidence, information or means to determine whether or not the applicant acted in good faith.
9. There is no evidence, information or means to determine that the applicant did not attempt to comply with the ordinance.
10. Based upon the value of the property it seems that the applicant has made a substantial investment.
11. The construction of the new structure is complete.

12. There are similar structures along Hand Lake.

13. Provided there is compliance with the conditions, the applicant will be compliant with the ordinance also any benefits to the County to be derived from simply requiring the demolition of the shed or placing it on another lot are outweighed by the applicant's burden which in light of all factors, the interest of justice is served by granting the ATF variance.

Conditions:

1. The applicant shall remove from the property the existing screened structure not later than 10/15/15 as confirmed by ESD staff.

2. The applicant shall move the new structure to the location of the removed structure no later than 10/15/15 as confirmed by ESD staff.

3. The entire amount of fill material placed upon the Hand Lake side of the lot shall be removed not later 10/15/15 as confirmed by ESD staff.

4. All applicable permits shall be obtained and late fees remitted not later than 10/15/15.

5. Upon failure to comply with all conditions #1 - #4, ESD shall proceed with a recommendation to the Office of the Cass County Attorney to initiate prosecution of the applicant.

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.

Catlett, Harry & Darcy, Crooked Lake Township on property described as Lots 18 - 20, "Tingdale Brothers Roosevelt Trails", Section 25-139-26, PID #12-467-2028 located at 6945 W Leavitt Road NE. An application submitted to expand a non-conforming residence with a 14 feet x 24 screened porch, which is considered an addition. The residence is non-conforming because it is located less than 100 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1115.3 which establishes the non-conforming structure expansion criteria, Section 1126.1 A. which requires structures to be at least 100 feet from a lake classified Recreational Development (RD) and Section 800 which establishes the variance review criteria. The property contains one acre riparian to Leavitt Lake (RD).

PC members were at the site 09/09/15. 46 notices of the application were mailed with no responses received. The application was reviewed and discussed with Darcy Catlett.

MS/P Kostial/Froehlig to approve the application for expansion of the residence located upon PID #12-467-2028 upon review of the criteria contained in Sections 800, 1115.3 and 1126.1 of the Land Use Ordinance (01/10/10) and in M.S. 394.27, Subdivision 7 with the following findings and conditions.

Findings:

1. "Tingdale Brothers Roosevelt Shores" was platted in 1927.

2. According to the permit archive the residence was permitted in 1984 by ZP84-139-26-47 at 100 feet from the lake.
3. As determined by ESD staff current lake setback is 87 feet.
4. The proposed deck will not be closer to the lake than the residence
5. The proposed residence expansion seems reasonable when taking into account the internal configuration of the residence along with the location of the deck which therefore does not necessarily contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and the general welfare.
6. The proposed residence expansion will not be excessive of scale or obtrusive to neighboring property which therefore does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
7. The surrounding area contains structures similar in size and scale and there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed addition expansions.
8. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

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

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

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

Conditions:

1. The dimensions, configuration and location of the residence expansion shall not vary from that submitted 08/07/15 and shall not be changed except as approved by ESD or if necessary the PC/BOA.
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. The applicant shall consult with ESD staff in regard to the disturbed slope area as to erosion control, slope stabilization and vegetative restoration measures that shall be implemented by the applicant not later than 10/01/15.
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 09/14/17.

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.

Curry, Kevin, Ponto Lake Township on property described as Part of Lot 40, "East Shore" & Part of Govt Lot 4, Section 10-139-29, PID #32-381-0401 located at 1787 E Ponto Lake Lane NW. An application submitted to expand a non-conforming residence with a 13 feet x 17 screened porch addition, a 3 feet x 12 addition and 8 feet x 45 deck to the lakeside of the residence. The residence is non-conforming because it is located 85 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1115.3 which establishes the non-conforming structure expansion criteria, Section 1126.1 A. which requires structures to be at least 100 feet from a lake classified Recreational Development (RD) and Section 800 which establishes the variance review criteria. The property contains .93 acre riparian to Ponto Lake (RD).

PC members were at the site 09/09/15. 27 notices of the application were mailed. No responses were. The application was discussed and reviewed with Mr. Curry's representative and neighbor Mr. Teegeen.

MS/P Kostial/Pehling to approve the application as submitted to expand the non-conforming residence located upon PID #32—381-0401 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. "East Shore" was platted in 1924 prior to the adoption of land use regulation.
2. The permit archive contains no record of the original construction although it was obviously prior to land use regulation.
3. The proposed residence expansion seems a reasonable use of the property when taking into account the location and configuration of the residence along with the size of the lot which 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 residence as expanded will not be excessive of scale or obtrusive to neighboring property which therefore does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
5. The surrounding area contains structures similar in size and scale and there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed addition expansions.
6. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
7. The expansion identified as "A" is 100 feet from the lake which therefore does not require approval by variance.
8. The proposed deck is subject to Section 1126.8 of the Land Use Ordinance and does not require approval by variance.
9. Ponto Lake at one time was classified RDL with a lake setback of 85 feet.

Conditions:

1. The dimensions, configuration and location of the residence expansion labeled "B" and "C" shall not vary from that submitted 08/14/15 and shall not be changed except as approved by ESD or if necessary the PC/BOA.
2. Any material resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
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. 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 09/14/17.

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.

Eidem, Charles & Renee, Birch Lake Township on property described as Lot 8, Block 1, "Subdivision of Lots 9 and 10 Ogema Point", Section 12-140-3, PID #05-387-0180 located at 4286 Ogema Point Drive NW. An application submitted to expand a non-conforming residence with deck and a 12 feet x 30 feet screened porch addition. The residence is non-conforming because it is located 79 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1115.3 which establishes the non-conforming structure expansion criteria, Section 1126.1 A. which requires structures to be at least 100 feet from a lake classified Recreational Development (RD) and Section 800 which establishes the variance review criteria. The property contains .84 acre riparian to Webb Lake (RD).

PC members were at the site 09/08/15. 28 notices of the application were mailed with three responses supporting approval of the application received. Charles and Renee Eidem were present to discuss and review their application.

MS/P LaPorte/Kostial to approve the application as submitted to expand the residence located at PID #05-387-0180 with a deck and porch as submitted upon review of the criteria contained in Sections 800 and 1115.3 of the Land Use Ordinance (02/15/13) ) along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. "Subdivision of Lots 9 & 10 Ogema Point" was platted in 1972.
2. There is no record in the permit archive as to the original construction although it most likely preceded the adoption of land use regulation.
3. The OHWL of Webb Lake is much higher than the water's edge.
4. The proposed expansion will 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.

5. 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.

6. The area along Webb 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.

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, 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 08/21/15 unless approved by ESD or if necessary, the PC/BOA.
2. Approval does not allow or imply approval that the structure to be expanded can be removed by demolition or any other method from the site nor shall the structure to be expanded be reduced to "one wall".
3. The porch shall not be closer to the lake than the existing structure.
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 09/14/17.

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.

Fromm, Bonnie, Ponto Lake Township on property described as S 100 Feet of N 400 Feet of Govt Lot 10, Section 3-139-29, PID #32-003-1413 located at 2219 State 84 NW. An application submitted to be allowed, "after the fact" to retain an existing bunkhouse/guest quarters on a lot, 19,166 square feet, that does not comply with the minimum guest quarters lot size standards and in addition is 51 feet from the lake. The application also requests to be allowed to retain a 10 feet x 20 deck to the primary residence which is 49 feet from the lake also constructed without permit. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1113. 1 which requires a guest quarters lot riparian to a Recreational Development (RD) to contain 100,000 square feet total area, 40,000 square feet buildable area and be 225 feet wide at the water and at the structure setback of 100 feet; this lot contains 19,166 square feet total area, 19,166 square feet buildable area at the lake and structure setback, Section 1126.1 A. which requires structures to be at least 100 feet from a lake classified Recreational Development (RD) and Section 800 which establishes the variance review criteria. The property contains .44 acre riparian to Island Lake (RD).

PC members were at the site 09/09/15. 29 notices of the application were mailed with two responses supporting approval of the application received. Don and Bonnie Fromm were present to discuss and review their application.

MS/P LaPorte/Kostial to table consideration of the application until the 10/12/15 meeting in order for the applicant to determine if location options for the structure further from the lake are available.

Johnson, Arlen, Powers Township on property described as Part of Govt Lot 5, Section 3-139-30, PID #34-003-2303 located at 2214 35<sup>th</sup> Ave NW. An application submitted to construct a 20 feet x 26 feet accessory structure/garage 75 feet from the lake and a subsurface sewage treatment system (SSTS) 120 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1126.1 A. which requires structures and SSTS to be at least 150 feet from a lake classified Natural Environmental (NE) and Section 800 which

establishes variance review criteria. The property contains .33 acre riparian to Pickerel Lake (NE).

PC members were at the site 09/08/15. 14 notices of the application were mailed with no written responses received. Several persons appeared to discuss the configuration and location of the proposed accessory structure/garage. The application was discussed and reviewed with Mr. Johnson.

MS/P LaPorte/Fitch to table consideration of the setback and location of the proposed accessory structure/garage until the 10/12/15 meeting in order for the applicant to consider location and configuration options.

MS/P LaPorte/Froehlig to approve the location of the SSTS to be located upon PID #34-003-2303 upon review of the criteria contained in Sections 800 and 1126.1 A. 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 a lot of record in 1946 and contains .33 acre.
2. The configuration of the lot makes it impossible for the SSTS to meet 150 feet from the lake at the closest point 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 location of the SSTS based upon the configuration of the lot will not be obtrusive to neighboring property which does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
4. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

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

1. ESD required and approved erosion control is installed.
2. If shoreline vegetative enhancement, 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.

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 SSTS shall not vary from that submitted 08/12/15 unless approved by ESD or if necessary the Planning Commission.
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 09/14/17.

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.

Lerdon, Kevin & Deb, Thunder Lake Township on property described as Lots 34-36, Block 1, "Oak Park Beaches", Section 36-144-30, PID #42-355-0165 located at 4953 Minnow Bucket Lane NE. An application submitted to expand a 24 feet x 32 feet non-conforming residence with a new roof and upper level loft area. The area of footprint will not be affected. The residence is non-conforming because it is located 75 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1115.3 which establishes the non-conforming structure expansion criteria, Section 1126.1 A. which requires structures to be at least 100 feet from a lake classified Recreational Development (RD) and Section 800 which establishes the variance review criteria. The property contains 1.17 acres riparian to Little Bass Lake (RD).

PC members were at the site 09/09/15. 30 notices of the application were mailed. Two responses endorsing approval of the application were received. The application was discussed and reviewed with Mr. Lerdon.

MS/P Fitch/Moore to approve the application for expansion of the residence located upon PID #42-355-0165 upon review of the criteria contained in Sections 800, 1115.3 and 126.1 of the

Land Use Ordinance (02/15/13) along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. "Oak Park Beaches" was platted in 1921.
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 Little Bass 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 08/27/15 unless approved by ESD or if necessary, the PC/BOA.
2. The height to peak shall not exceed 30 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 09/14/17.

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.

Northern Gospel Fellowship/Miracle Bible Camp, Woodrow Township on property described as Govt Lot 9, NE SE & Part of SW SE, Section 1-140-29, PID #51-001-3400 located at 4389 Timber Drive NW. An application submitted to replace an existing 16 feet x 36 feet structure with new 36 feet x 36 feet construction to be located 42 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 property contains 71.98 acres acre riparian to Woman Lake (GD).

PC members were at the site 09/08/15. 17 notices of the application were mailed with no responses. The application was discussed and reviewed with the Executive Director Mr. Payne.

MS/P Moore/Kostial to approve the application for the size, configuration and location of the camp structure that will replace the existing non-conforming camp structure located upon PID #51-001-3400 upon review of the criteria contained in Sections 800 and 1126.1 A. 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 no record in the permit archive of construction of the structure to be replaced although it was obviously prior to land use regulation.
2. The proposed replacement structure will be no closer to the lake than the existing structure.
3. The increased square footage in the proposed structure above the current structure is required to comply with Minnesota Department of Health standards based upon occupancy.
4. The proposed size is mandated by state rule and with the location of the SSTS limits placement options, accordingly the proposal 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 similar to other camp structures in 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 08/27/15 unless approved by ESD or if necessary, the PC/BOA.



2. The height to peak shall not exceed 30 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. Verification of construction plan by MN DoH must be provided to ESD prior to the commencement of construction.
8. Unless extended or revised by the Planning Commission this approval shall be effective until 09/14/17.

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.

Requet, Richard, Woodrow Township on property described as Lot 11, "Sunny Acres", Section 23-140-29, PID #51-467-0110 located at 572 Sunny Acres Lane NW. An application submitted to replace an existing 14 feet x 56 feet mobile home at 41 feet with a 26 feet x 57 feet mobile home 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) and Section 800 which establishes the variance review criteria. The property contains .28 acre riparian to Woman Lake (GD).

PC members were at the site 09/08/15. 38 notices of the application were mailed with no responses. The application was discussed and reviewed with Mr. Requet.

MS/P Kostial/Moore to approve the application for the size, configuration and location of the replacement residence at 60 feet from the lake for PID #51-467-0110 upon review of the criteria contained in Sections 800 and 1126.1 A. of the Land Use Ordinance (02/15/13) along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. "Sunny Acres" was platted in 1954 and Lot 11 contains .28 acre.
2. Lot 11 contains .28 acre and is 105 feet to 110 feet from water to road which, due to road setback of 20 feet and lake setback of 75 feet, limits placement options.
3. There is no record in the permit archive for the placement of the existing mobile home/residence to be replaced although it mostly likely occurred prior to land use regulation.

4. The proposed replacement residence structure will be 31 feet further from the lake than the current 20 feet setback.
5. Based upon the lot size and configuration the requested location is the most reasonable option and 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 neighboring area along Woman Lake contains similar sized lots with modest residence similar in size to that proposed 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.
7. There is nothing to indicate that the proposed residence will effect or alter the land use of the neighboring area.
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 structure shall not vary from that submitted 08/12/15 unless approved by ESD or if necessary, the PC/BOA.
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 shall consent to inspection of the property 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 09/14/17.

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.

Robinson, Edward Jr & Donna, Otter Tail Peninsula Township on property described as Lot 1, "Hedin Harbor on Leech Lake", Section 36-144-30, PID #28-550-0010 located at 2479 Harbor Drive NW. An application submitted to expand a non-conforming residence with a 30 feet x 30 attached garage. The residence is non-conforming because it is located 40 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1115.3 which establishes the non-conforming structure expansion criteria, Section 1126.1 A. which requires structures to be at least 75 feet from a lake classified General Development (GD) and Section 800 which establishes the variance review criteria. The property contains .44 acre riparian to Leech Lake (GD).

PC members were at the site 09/08/15. 19 notices of the application were mailed with no responses. The application was discussed and reviewed with the applicants' representative Ms. Johnson.

MS/P Fitch/Moore to approve the application for the size, configuration and location of the expansion of the residence located at PID #28-550-0010 upon review of the criteria contained in Sections 800 and 1115.3. of the Land Use Ordinance (02/15/13) along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. "Hedin Harbor on Leech Lake" was platted in 1960 prior to the adoption of minimum lot size standards.
2. There is no record in the permit archive of construction of the structure to be expanded.
3. The proposed expansion will be toward the harbor and access channel but no closer to the lake than the existing structure.
4. Based upon the lot size, lot configuration of the lot and the location of the harbor, the location of the proposed expansion seems the best option, is reasonable and 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 residence with the proposed addition will not be out of character or size from neighboring properties in the neighboring area 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 addition shall not vary from that submitted 08/19/15 unless approved by ESD or if necessary, the PC/BOA.
2. The height to peak of the addition shall not exceed that of the residence.
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 09/14/17.

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.

Schneider, Otto, Shingobee Township on property described as Part of Govt Lot 1, Section 3-139-30, Part of Govt 4 & Part of SW SE, Section 25-141-31, PID #38-036-1202 located at 5251 Chokecherry Trail NW. An application submitted to be allowed to remove the historic ridge from the width of the lot, 110 feet. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1106.4 B. which restricts the removal of an historic ice ridge to a maximum of 20 feet and Section 800 which establishes variance review criteria. The property contains .5 acre riparian to Ten Mile Lake (GD).

PC members were at the site 09/08/15. 19 notices of the application were mailed with no responses. The application was discussed and reviewed with Mr. Schneider.

MS/P Pehling/LaPorte to approve the removal of a portion of the permanent ice ridge located at PID #38-036-1202 of the criteria contained in Sections 800 and 1106.4 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 1963 and contains .5 acre.
2. The residence was constructed in 1986 per ZP86-141-31-5.
3. The structure closest to lake which is threatened by the ice ridge was reconstructed in 1997 per ZP97-141-31-22.
4. The existing ice ridge, based on vegetation is historic and not from recent ice action.
5. The near lakeside structure is threatened by continued movement of the existing ice ridge, removal of the portion of the ice ridge along the lakeside structure seems prudent to prevent its inevitable damage and with vegetative mitigation, 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. Removal of the portion along the lakeside structure will be less dramatic than the ice ridge removal on neighboring property and there is no evidence or information to establish that the proposal 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. 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 ice ridge alteration shall be limited to that immediately adjacent to the threatened lakeside structure.
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 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 09/14/17.

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.

Smith, Craig, Thunder Lake Township on property described as Lot 6, Block 1, "Manders Pine Acres, Section 34-140-26, PID #42-443-0160 located at 6064 S Bass Lake Drive NE. An application submitted to exceed the total detached accessory structure square footage allowed

per lot size by 268 square feet. Based upon lot size, .97 acre, the property is allowed 1,200 square feet of detached accessory structure. The property currently contains a 28 feet x 32 feet, 896 square feet structure and is proposing to construct a 24 feet x 28 feet, 672 square feet accessory structure. As allowed by the ordinance, the proposed accessory structure will be located at twice the applicable setback standards therefore qualifying for a 33% increase in size. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1101 which establishes the cumulative detached accessory size based upon lot size and Section 800 which establishes the variance review criteria. The property contains .97 acre riparian to Bass Lake (RD).

PC members were at the site 09/09/15. 19 notices of the application were mailed with no responses. The application was reviewed and discussed with Mr. and Mrs. Smith.

MS/P LaPorte/Froehlig to approve the application to exceed the maximum square footage of accessory allowed per, 268 square feet, lot size for of PID #42-443-0160 based upon the criteria contained in Sections 800 and 1101 of the Land Use Ordinance (02/15/13) along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. "Mander's Pine Acres" was platted in 1972 prior to the adoption accessory structure size limitations.
2. The proposed accessory structure location will qualify the size increase allowance based upon setback.
3. The proposed structure will not be visible from the lake, S Bass Lake Road or neighboring residences.
4. The location mitigates the modest size increase in total accessory structure and 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 similar to other accessory structures located along Bass Lake 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. The new structure will not materially affect the impervious coverage upon the property.
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, 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 08/12/15 unless approved by ESD or if necessary, the PC/BOA.
2. The height to peak 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 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 09/14/17.

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.

Stange, Cynthia, Crooked Lake Township on property described as Lot 13, Block 1, "Birch Bay on Washburn Lake", Section 17-139-26, PID #12-438-0161 located at 1363 Birch Bay Drive NE. An application submitted "after the fact" to be allowed to retain a lakeside deck located 72 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 property contains .53 acre riparian to Lake Washburn (GD).



PC members were at the site 09/09/15. 62 notices of the application were mailed. One response supporting approval and one response objecting to approval were received. The application was reviewed and discussed with Ms. Stange.

MS/P Moore/Kostial to approve, "after the fact" the placement and location of the lakeside deck of the residence located upon PID #12-438-0161 based upon the criteria contained in Sections 800 of the Land Use Ordinance (02/15/13), M.S. 394.27, Subdivision 7 along with the criteria established by the Minnesota Supreme Court "Statsvold" decision with the following findings and conditions:

Findings:

1. Lot 13, Block 1, "Birch Bay on Washburn Lake" was platted in 1976 and contains .53 acre.
2. The original construction of the residence cannot be determined which therefore negates the 15% deck option as allowed by Section 1126.8 of the Land Use Ordinance.
3. There is no information or evidence that the deck has altered or disturbed land use or neighboring property and it 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. There is no information or evidence that the slight lake encroachment, 3 feet, of the deck has altered the view of the residence from the lake or that its location contradicts 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. There is nothing to indicate that the application is primarily financially based.

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

6. There is no evidence or information that the applicant did not act in good faith.
7. There is evidence and information that the applicant did attempt to comply with the ordinance.
8. Based upon the value of the property it seems that the applicant has made a substantial investment.
9. The construction of the deck is complete.
10. There are similar structures along Lake Washburn.
11. The degree of encroachment is inconsequential, 3 feet, and the County's benefits are outweighed by the applicant's burden if the applicant were required to comply with the ordinance and in light of all factors the interest of justice is served by granting the ATF variance.

Conditions:

1. The deck shall not be enclosed.
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. Applicant consents to inspection of the property by ESD to verify compliance with conditions.

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.

Surbaugh, David & Duann, Birch Lake Township on property described as Lot 8, Block 1, "Lavarda Timbers", Section 13-140-30, PID #05-390-0135 located at 2590 Lavarda Lane NW. An application submitted to expand a 1,615 square feet non-conforming residence/deck with a 24 feet x 32 feet x 10 feet x 8 feet addition. The residence is non-conforming because it is located 50 feet from the lake and less than 20 feet from the right-of-way of Lavarda Lane NW. In addition the application includes a request to locate the proposed subsurface sewage treatment system (SSTS) at less than the required lake setback and at less than the required 10 feet separation from an occupied structure. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1115.3 which establishes the non-conforming structure expansion criteria, Section 1126.1 A. which requires structures to be at least 100 feet and SSTS at least 75 feet from a lake classified Recreational Development (RD), Section 1126.1 B. which requires structure to be setback 20 feet from the right -of-way of a platted road, Section 800 which establishes the variance review criteria and Minnesota Rule 7080.0170 which required 10 feet from a SSTS to an occupied structure. The property contains .44 acre riparian to Webb Lake (RD). WITHDRAWN FROM CONSIDERATION BY THE APPLICANTS' REPRESENTATIVE MR. AKRE.

Wilson, Kenneth & Terri, Powers Township on property described as Part of Govt Lot 3, Section 15-139-30, PID #34-015-2107 located at 3628 Ox Yoke Road NW. An application submitted to construct a 26 feet x 36 residence 70 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 the variance review criteria. The property contains 1.1 acres riparian to Ox Yoke Lake (RD).

PC members were at the site 09/08/15. 34 notices of the application were mailed with no responses received. The application was reviewed and discussed with Ken and Terri Wilson.

MS/P Moore/Fitch to approve the placement and location of a residential structure at 70 feet from the lake for PID 34-015-2107 based upon the criteria contained in Sections 800 and 1126.1 A. 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 parcel became of record in 1994 and contains 1.1 acres.
2. The lot is shallow from the lake to road with residence placement options limited by Ox Yoke Road.
3. The proposed size is modest and lot configuration limits placement options 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 lot is of irregular configuration which limits placement options to which there is no evidence or information to establish that the residence location 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. 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 residence dimensions of 28 feet x 36 feet and location, 72 feet from the lake, shall not vary from that submitted 08/24/15 unless approved by ESD or if necessary, the PC/BOA.
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 shall consent to inspection of the property 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 09/14/17.

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.

#### Conditional Use Permit

Foster, Brent, Woodrow Township on property described as part of Govt Lot 4, Section 7-140-29, PID #51-007-3305 & Lot 1, "Ogema Point" & Sly 16.5 Feet of Vacated Portion of Lake St, Section 12-140-30, PID #51-384-0010 located 4153 Ogema Point Drive NW. An application submitted to conduct a Home Business consisting of custom canvass/upholstery fabrication which requires approval by conditional use permit (CUP). A home business is a commercial activity conducted by the owner/occupant within the primary residence, accessory or outdoors. The relevant portions of the Land Use Ordinance (02/15/13) include Section 705 which establishes the CUP review criteria and Section 1110 which establishes the Home Occupation/Business standards. The property contains 1.26 acres riparian to Webb Lake (RD).

PC members were at the site 09/08/15. 40 notices of the application were mailed. One response favoring approval and one objecting to approval of the application were received. The application was reviewed and discussed with Mr. Foster.

MS/P LaPorte/Moore to approve the application for a Home Business as submitted for PID #51-007-3305 based upon review of the criteria contained in Sections 705 and 1110 of the Land Use Ordinance (02/15/13) along with M.S. 394.301 with the following findings and conditions:

#### Findings:

1. The commercially related land use included in the application is currently active.
2. The commercially related land use seems modest and unobtrusive in nature and takes place within an enclosed accessory structure.
3. No evidence or documentation has been submitted that property values in the area have been or will be affected.
4. There is no evidence to conclude that the custom canvass/upholstery fabrication has adversely affected neighboring property.

5. The existing township road is utilized which will not require expansion or reconfiguration.
6. There is no retail service and traffic is limited to customers dropping and picking up orders along with deliveries and pick-up by UPS and Fed Ex.
7. No wetland or critical habitat has been or will be disturbed.
8. No scenic or historic features have been or will be affected.
9. There is no threat to public health, safety and welfare.
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 land use activity is not 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. Outside storage of customer boat/trailer shall not exceed three.
2. Expansion to another structure on the property must be reviewed and approved by the Planning Commission.

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.

Martin, Jacob, May Township on property described as E  $\frac{1}{2}$  of W  $\frac{1}{2}$  of N  $\frac{1}{2}$  of NW NE & W  $\frac{1}{2}$  of E  $\frac{1}{2}$  of N  $\frac{1}{2}$  of NW NE, Section 24-134-31, PID #24-124-1201 located along 108<sup>th</sup> St SW. An application submitted to reclassify the property from AF to RR-10. The relevant portions of the Land Use Ordinance (02/15/13) include Sections 903 and 1001 which establish land use districts along with Section 705 which establishes the CUP criteria. The property contains 10 acres (A/F).

18 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 to reclassify PID #24-124-1201 to RR-10 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 conditions:

Findings:

1. The lot has been described and recorded and is currently deemed non-conforming.

2. The 10 acres proposed for reclassification represents .00011 of the total acreage of the township.
3. No responses or objections have been received from any persons or governmental entities notified of the application.
4. There is no reason to expect that one 10 acre parcel will cause adverse effects to adjoining property.
5. One 10 acre parcel will have no impact to the demand for governmental services.
6. Existing roadways will be utilized with no need to expand exiting public infrastructure.
7. No wetland or critical habitat will be disturbed by reduction of minimum lot size.
8. No scenic or historic features will be affected by the reduction of minimum lot size.
9. No threat to public health, safety and welfare can be expected from a change to minimum lot size.
10. The total acres to be reclassified do not reach the mandatory EAW threshold.
11. There is no reason to expect that the reduced lot size will have any effect to surface water or ground water quality.

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 72<sup>nd</sup> Street SW and 17<sup>th</sup> Avenue SW. An application submitted to reclassify the property from non-riparian Shoreland Residential (SR) Commercial-2 (C-2) which requires approval by conditional use permit (CUP). Any land use within C-2 requires CUP approval and conditions limited to a specific land use activity. The proposed land use activity consists of 10 acres developed as 12 individual lots/structures intended for indoor storage with two 2.5 acre lots for residential development. The relevant portions of the Land Use Ordinance (02/15/13) include Section 800 which establishes the variance standards, Sections 903 and 1001 which establish land use districts. The property contains 15 acres non-riparian within the shoreland area, 1,320 feet, of Stony Brook (TRIB).

PC members were at the site 09/09/15. 39 notices of the application were mailed. Two responses objecting to the application were received. In addition, several persons appeared at the hearing to present their concerns in regard to the proposed reclassification and development. The application was reviewed and discussed with Jason and Melissa Raasch, MS/P LaPorte/Froehlig to approve the reclassification of the designated portion of PID #22-031-4402 from Shoreland Residential (SR) to Commercial -2 (C-2) 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. There are two existing business located within  $\frac{1}{2}$  mile of this proposed site.
2. There is existing storage located on adjacent property to the north.
3. The property is directly adjacent to 17<sup>th</sup> Avenue with existing access.
4. 17<sup>th</sup> Avenue connects County #168 with County #29.
5. There is no evidence or information that the current boat service or storage activity has had any adverse effect to adjoining or area property.
6. Traffic activity to the proposed use site will be sporadic.
7. The property will utilize egress/ingress that will not require alteration for the proposed use.
8. The proposed reclassification/land use will have no impact to public infrastructure.
9. No wetland or critical habitat will be disturbed by the proposed reclassification and land use.
10. No scenic or historic features will be affected by the proposed reclassification and land use.
11. No evidence or information has been submitted to establish that the proposed reclassification and land use will have a detrimental effect to public health, safety or welfare.
12. No evidence or information has been submitted to establish that the proposed reclassification and land use will alter or be detrimental to land use in the general area.
13. 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.
14. There is no information or evidence that the proposed reclassification and land use will have a negative effect or 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.
15. The applicants reside on property directly adjacent to this site.

## Conditions:

1. The area classified C-2 shall be confined to the 10 acres as designated.
2. The structures shall not vary from the configuration submitted with the application.
3. As submitted, all of the structures shall all be of consistent color and construction.
4. The structures shall be for private storage of the owners with no ancillary business or commercial activity permitted.
5. There shall be absolutely no outside storage
6. All outside lighting shall be directed to the ground and motion activated.
7. The units shall be allowed plumbing with holding tank only.
8. Under no circumstances shall the units be utilized for living quarters.
9. Any revision to the proposed configuration, size or use of the structures must be reviewed and approved by the Planning Commission.
10. Unless revoked or otherwise revised by the Planning Commission this approval shall be effective as long as the site is used for the approved land use.

Other Business

Capesius, Joseph, Unorganized on property described as Lots 6 & 7, "Teds Subdivision", Section 34-146-29, PID #75-445-0060 located at 968 River Drive NE. Amend VP15-146-29-1 which was approved 07/13/15 to include a closer setback, less than 150 feet, from the Mississippi River (W) for the installation of a SSTS.

MS/P Moore/Fitch to amend as requested VP15-146-29-1 to include closer SSTS setback from the river.

MS/P Pehling/Fitch at 3:48 pm, to adjourn.

P. Fairbanks