

**BOARD OF ADJUSTMENT/PLANNING COMMISSION
CITY OF LAKE SHORE
LAKE SHORE CITY HALL
MINUTES
OCTOBER 13, 2025
9:00 AM**

Commission Members in attendance: Chair Jim Woll, Sean Weldon, PJ Smith, Dave Riegert; Alternate Kevin Egan; Mayor Andy Stewart; City Engineer Alex Bitter; Sourcewell Nicole Hausmann; City Clerk/Administrator Laura Fussy, and Deputy Clerk Kathy Johansen. Absent were Commission Member Alex Kuhn and Council Liaison Darcy Peterson. A quorum was present, and the Commission was competent to conduct business. There were twenty-five people in the audience including Alternate TJ Graber.

Chair Jim Woll called the meeting to order at 9:00 a.m.

Approval of the September 8, 2025, Regular Meeting Minutes – MOTION BY PJ SMITH AND SECONDED BY KEVIN EGAN TO APPROVE THE MINUTES FOR THE SEPTEMBER 8, 2025, BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. MOTION PASSED.

PUBLIC HEARING –

MOTION BY SEAN WELDON AND SECONDED BY DAVE RIEGERT TO OPEN THE PUBLIC HEARING AT 9:03 AM. MOTION PASSED.

Variance 10-25 (#5a) (2 Gulls & 3 Buoys) – to construct a 702 square foot addition to the south of an existing legal non-conforming dwelling with an attached 39 square foot covered entry not meeting bluff setback, and to construct a 799 square foot addition to the west of an existing legal non-conforming dwelling not meeting the side yard setback. PID's 90-437-2555 & 90-437-2560.

The subject property (PID #90-437-2555) features an existing legal non-conforming structure (1,024 sq. ft.) with an attached deck (421 sq. ft.). The subject property features a garage with living quarters (552 sq. ft.). The proposed additions will create one principal dwelling with an attached garage.

The subject property (PID #90-437-2560) features an existing legal non-conforming structure (440 sq. ft.) with an attached deck (231 sq. ft.). The guest cottage meets the size requirements specified in Section 17.3.1.6 of the Ordinance.

The applicant has submitted a new septic system that Andy Schwartz has reviewed and approved.

Staff Findings: Staff provides the following findings of fact for discussion and consideration:

1. The subject properties are located at 8784 & 8788 Interlachen Rd and are zoned Residential, Medium Density R-2 (Shoreland); (Gull Lake - General Development).
2. The subject properties are 1.09 Acres (47,794 sq. ft.) total
3. The subject property contains a legal existing non-conforming dwelling on lot 20 (PID #90-437-2555).
4. The subject property contains a legal existing non-confirming guest cottage on lot 21 (PID #90-437-2560).
5. The two parcels would be consolidated if a variance is approved.
6. The parcel directly to the north is owned by the same property owners (2 Gulls and 3 Buoys, LLC).

7. The existing accessory structure with living quarters would become part of the principal structure if a variance were approved.
8. The proposed 702 square foot addition is 14 feet from the bluff at the closest point on the south side of the property.
9. The proposed additions would meet the lake setback and the road right-of-way setback, per Certificate of Survey received 9/16/2025.
10. The applicant has provided a new septic system design to be installed with the proposed additions. This design has been reviewed and approved by Andy Schwartz.
11. The total impervious surface for the lot, including the proposed additions and existing structures provided on the Certificate of Survey received 9/16/2025, is 20.3% where 25% is the maximum impervious surface total for the parcel in the Residential, Medium Density R-2 (Shoreland) zone for a riparian GD lake (stormwater management plan required per section 17.3.3).
12. Section 8.2 of the City of Lake Shore ordinance allows for a one-time addition to a non-conforming principal structure to be permitted without the need for a variance, provided all requirements of the section are met. This section does not allow for a structure over 2,500 square feet, which can only be approved by means of a variance from the code requirements.
13. No extensive research was conducted regarding similar structures in similar locations for property within the immediate vicinity of the subject property. A review of aerial imagery obtained from GIS was utilized.
14. A stormwater management plan has been submitted to the city with the variance application and reviewed by the City Engineer.
15. The DNR has been notified of the request, and no comment has been received as of the time this staff report was drafted.
16. The City Engineer has been notified of the request, and had no additional comments per email received 10/2/2025.
17. Notice of this variance application was published in the local newspaper & distributed to property owners within the required distance to the property (500 ft.). No comments have been received as of the drafting of this staff report.

Potential Findings for approval, for discussion with the Board of Adjustment:

18. Will granting the variance put property to use in a reasonable manner not permitted by the zoning ordinance?
 - a. Yes, the applicant is proposing to continue the use of the property as a residential home with the addition (799 sq. ft.) by attaching the accessory structure to the principal dwelling. The other addition (702 sq. ft.) is not getting any closer to the bluff than the existing dwelling. These lots will be consolidated to be compliant with City Code requirements.
19. Does the property have unique circumstances that were not created by the landowner?
 - a. Yes, the properties are non-conforming legal lots of record. There are existing structures on lots 20 and 21. The proposals will meet the lake and road right-of-way setbacks as outlined in the Certificate of Survey received on 9/16/2025.
20. If the variance is granted, will the essential character of the locality remain consistent?
 - a. Yes, constructing the additions will not alter the essential character of the neighborhood. The proposed improvements are consistent with other dwellings in the vicinity of the subject property. The same property owner owns the property directly to the north.
21. Will the variance, if granted, be consistent with the comprehensive plan and be in harmony with the purpose and intent of the City of Lake Shore ordinances?

- a. Yes, the request, with conditions, is consistent with the purpose and intent of the zoning ordinance and the following goal in the comprehensive plan, “Support growth patterns that reinforce our lake-oriented and rural development brand.” (pg. 5) and “Protect the quality of the lakes and environmental resources within and around the City.” (pg. 4)
- 22. Has the variance request been made based on reasons other than economic considerations alone?
 - a. Yes, the request has been made on factors other than economic considerations. Implementing a stormwater management plan will help protect the water quality of Gull Lake.

Potential Findings for denial, for discussion with the Board of Adjustment:

- 23. Will granting the variance put property to use in a reasonable manner not permitted by the zoning ordinance?
 - a. No, the plight of the landowner is due to circumstances created by the landowner proposing additions that do not meet the bluff or side yard setback. The intent of the Ordinance is to enforce setbacks to limit environmental concerns and impacts to Gull Lake.
- 24. Does the property have unique circumstances that were not created by the landowner?
 - a. No, the plight of the landowner is due to circumstances unique to the property owner, created by the landowner wanting an addition in this specific location to the principal dwelling, which is closer to the bluff than allowed by the Ordinance.
- 25. If the variance is granted, will the essential character of the locality remain consistent?
 - a. Yes, constructing the additions will not alter the essential character of the neighborhood.
- 26. Will the variance, if granted, be consistent with the comprehensive plan and be in harmony with the purpose and intent of the City of Lake Shore ordinances?
 - a. No, the variance is not consistent with the comprehensive plan, as decreasing the bluff and side yard setback will not provide adequate environmental considerations.
- 27. Has the variance request been made based on reasons other than economic considerations alone?
 - a. No, the variance is for economic reasons alone, and reasonable use of the property does exist under the ordinance.

Board of Adjustment Direction: The Board of Adjustment may approve, deny, or table the request if additional information is required. If the motion is for approval or denial, findings of fact should be cited to support the motion.

Staff Recommendation: Staff recommends that the Board of Adjustment discuss and provide input regarding the proposed findings for approval and/or denial. The applicant has provided their testimony regarding the practical difficulty with the application provided to the city. The City of Lake Shore zoning ordinance allows for additions to a principal structure; however, the encroachment of the side yard and bluff setback may only be allowed by variance.

If the Board of Adjustment wishes to approve the variance request, staff recommends the following conditions of approval:

- 1. All construction shall be in substantial conformance with the presented plan as shown. Deviations from the presented plan will require modified approval by the Planning Commission.

2. The variance expires 12 months after approval by the Planning Commission, if the project is not commenced, unless extended per section 70.7 of the Ordinance.
3. PID #90-437-2555 & PID #90-437-2560 must be consolidated with Cass County before issuing a zoning permit with the City.
4. Implement an erosion and sediment control plan utilizing best management practices (BMPs) before construction and dirt-moving activities. The city must approve the plan. The BMPs must remain in place until all disturbed soils are stabilized.
5. The proposed downspout gutters and stormwater retention areas, as shown on the stormwater management plan, shall be implemented upon completion of the project if/when a zoning permit is applied for and approved by the City.
6. The guest cottage shall remain accessory to the principal use and shall not be sold or rented as a separate dwelling without further city approval.

Nicole Hausmann stated the following items will become part of the record – Notice of mailing, notice of publication, signed application and attachments and staff report, and comments received. One written comment was received by the City Engineer and is in the packet. DNR was notified on September 21st and no additional comments have been received.

Nicole Hausmann presented Variance 10-25 (#5a).

Travis Miller explained the unique situation in the construction of the additions.

Dave Baudler indicated he was the owner of the property and shared the additions would accommodate some living area on the main floor for live-in parents and provide additional space for his family.

Kevin Egan remarked from his perspective the ownership of both lots is key in the decision of this request.

Jim Woll requested an explanation regarding how combining lots will reduce non-conformities from three to one.

Travis Miller explained on the north lot there is currently a stand-alone home, a detached garage with a living space, and on the south lot there is a guest cabin that has living space in it, and this goes across the property lines between Lot #20 and Lot #21. The additions are creating one primary dwelling with an attached garage and then one accessory structure on one lot.

Discussion continued regarding the structures and the lot lines.

MOTION BY PJ SMITH AND SECONDED BY KEVIN EGAN TO APPROVE THE VARIANCE 10-25 (2 GULLS AND 3 BUOYS) REQUEST BASED ON THE FINDINGS OF FACT AND SUBJECT TO THE CONDITIONS OUTLINED BY STAFF. MOTION PASSED.

Variance 10-25 (#5b) (John Allen) – to construct a new dwelling with an attached garage and covered porch not meeting the road right-of-way or side yard setback. PID 90-457-0010.

The subject property features an existing legal non-conforming structure (400 sq. ft.) with an attached deck (240 sq. ft.), which will remain on the property as a guest cottage. The guest cottage meets the size requirements as specified in Section 17.3.1.6 of the Ordinance. The existing garage will be removed (576 sq. ft.). The Board of Adjustment approved a previous variance on December 20, 2023, for rebuilding a new home, which included boat storage, and constructing a sports court on the west side of the property.

The applicant has a septic system installation dated 7/02/2025, which is deemed compliant as documented and provided to the city.

Staff Findings: Staff provides the following findings of fact for discussion and consideration:

1. The subject property is located at 9110 Pebble Beach Rd and is zoned Residential, Medium Density R-2 (Shoreland); (Gull Lake - General Development).
2. The subject property is +/- .80 Acres (35,009 sq. ft. not including ROW)
3. The subject property contains a legal existing non-conforming guest cabin with an attached deck.
4. The proposed 2,998 square foot new dwelling with attached garage is 8 feet from the side yard setback (closest point at north side bump out), 10 feet (northeast corner - towards the lake), and 13 feet (northwest corner - towards the road right-of-way), where 15 feet is required.
5. The proposed 2,998 square foot new dwelling with attached garage is 26 feet from the road right-of-way (Pebble Beach Road), where 30 feet is required.
6. The proposed 2,998 square foot new dwelling with attached garage and covered porch will meet the side yard setback to the south of the property, per Certificate of Survey received 9/17/2025.
7. The proposed new dwelling with attached garage and covered porch would meet the lake setback, per Certificate of Survey received 9/17/2025.
8. The proposed 1,103 square foot covered porch will meet the lake setback and the road right-of-way setback, per Certificate of Survey received 9/17/2025.
9. The existing detached garage will be removed from the property.
10. The proposed 1,468 square foot driveway will utilize pervious material.
11. The existing septic system was installed and deemed compliant as documented on the installation form dated 7/2/2025 and was provided to the city.
12. The total impervious surface for the lot, including the proposed new dwelling with an attached garage and covered porch and existing structures provided on the Certificate of Survey received 9/17/2025, is 24.1% where 25% is the maximum impervious surface total for the parcel in the Residential, Medium Density R-2 (Shoreland) zone for a riparian GD lake (stormwater management plan required per section 17.3.3).
13. No extensive research was conducted regarding similar structures in similar locations for property within the immediate vicinity of the subject property. A review of aerial imagery obtained from GIS was utilized.
14. A stormwater management plan has been submitted to the city with the variance application and reviewed by the City Engineer.
15. The DNR has been notified of the request, and no comment has been received as of the time this staff report was drafted.
16. The City Engineer has been notified of the request, and the comment received on 10/2/2025 stated: "Provide details for pervious driveway and maintenance plan, if using the existing drainfield for home, verify the sizing is still compliant and stormwater retention is to be the 5-year, 24-hour event, not the 1 inch since the impervious is increasing more than 5%".
17. Notice of this variance application was published in the local newspaper & distributed to property owners within the required distance to the property (500 ft.). No comments have been received as of the drafting of this staff report.

Potential Findings for approval, for discussion with the Board of Adjustment:

18. Will granting the variance put property to use in a reasonable manner not permitted by the zoning ordinance?

- a. Yes, the applicant is proposing to continue the use of the property as a residential home with an attached garage and covered porch. The new dwelling would meet the lake setback and be further from the lake than the existing non-conforming structure. This is also an existing lot of record established prior to zoning regulations.
- 19. Does the property have unique circumstances that were not created by the landowner?
 - a. Yes, property is a non-conforming legal lot of record that is divided by Pebble Beach Road with a small building envelope. The new proposal will meet the lake setback according to the Certificate of Survey received on 9/17/2025.
- 20. If the variance is granted, will the essential character of the locality remain consistent?
 - a. Yes, constructing the new dwelling will not alter the essential character of the neighborhood. The proposed improvements are consistent with other houses in the vicinity of the subject property.
- 21. Will the variance, if granted, be consistent with the comprehensive plan and be in harmony with the purpose and intent of the City of Lake Shore ordinances?
 - a. Yes, the request, with conditions, is consistent with the purpose and intent of the zoning ordinance and the following goal in the comprehensive plan, "Support growth patterns that reinforce our lake-oriented and rural development brand." (pg. 5)
- 22. Has the variance request been made based on reasons other than economic considerations alone?
 - a. Yes, the request has been made on factors other than economic considerations. Implementing a stormwater management plan will help protect the water quality of Gull Lake.

Potential Findings for denial, for discussion with the Board of Adjustment:

- 23. Will granting the variance put property to use in a reasonable manner not permitted by the zoning ordinance?
 - a. No, the plight of the landowner is due to circumstances created by the landowner proposing a new dwelling that does not meet the side yard or road right-of-way setbacks. The intent of the Ordinance is to enforce setbacks to limit environmental concerns and impacts to Gull Lake.
- 24. Does the property have unique circumstances that were not created by the landowner?
 - a. No, the plight of the landowner is due to circumstances unique to the property owner, created by the landowner wanting a new dwelling with an attached garage, which is closer to the road and side yard than allowed by the Ordinance.
- 25. If the variance is granted, will the essential character of the locality remain consistent?
 - a. Yes, constructing the new dwelling will not alter the essential character of the neighborhood.
- 26. Will the variance, if granted, be consistent with the comprehensive plan and be in harmony with the purpose and intent of the City of Lake Shore ordinances?
 - a. No, the variance is not consistent with the comprehensive plan, as decreasing the side yard and road right-of-way setback will not provide adequate environmental considerations.
- 27. Has the variance request been made based on reasons other than economic considerations alone?
 - a. No, the variance is for economic reasons alone, and reasonable use of the property does exist under the ordinance.

Board of Adjustment Direction: The Board of Adjustment may approve, deny, or table the request if additional information is required. If the motion is for approval or denial, findings of fact should be cited to support the motion.

Staff Recommendation: Staff recommends that the Board of Adjustment discuss and provide input regarding the proposed findings for approval and/or denial. The applicant has provided their testimony regarding the practical difficulty with the application provided to the city.

If the Board of Adjustment wishes to approve the variance request, staff recommends the following conditions of approval:

1. All construction shall be in substantial conformance with the presented plan as shown. Deviations from the presented plan will require modified approval by the Planning Commission.
2. The variance expires 12 months after approval by the Planning Commission, if the project is not commenced, unless extended per section 70.7 of the Ordinance.
3. Implement an erosion and sediment control plan utilizing best management practices (BMPs) before construction and dirt-moving activities. The city must approve the plan. The BMPs must remain in place until all disturbed soils are stabilized.
4. The proposed downspout gutters and stormwater retention areas, as shown on the stormwater management plan, shall be implemented upon completion of the project if/when a zoning permit is applied for and approved by the City.
5. The guest cottage shall remain accessory to the principal use and shall not be sold or rented as a separate dwelling without further city approval.
6. A maintenance plan with a schedule shall be submitted to the city if/when a zoning permit is applied for and approved by the city for all pervious material being used for the driveway/walkways.

Nicole Hausmann stated the following items will become part of the record – Notice of mailing, notice of publication, signed application and attachments, staff report and comments received. One written comment was received from the City Engineer which is included in the packet. DNR was notified on September 23rd and no additional comments were received.

Nicole Hausmann presented Variance 10-25 (#5b).

John Allen shared the proposed project is the construction of a new home with attached garage and stated the variance request is for an 8 foot side yard setback and a 26 foot road right-of-way. John referenced that this home will have a 75 foot lake setback and the garage will align with four or five existing garages on surrounding properties.

Alex Bitter commented on providing details on the impervious driveway and maintenance plan and mentioned the proposed stormwater plan does not meet the ordinance.

John Allen shared that he doesn't feel there will be a storm water problem. The grade will be built up so any rain coming off the roof will go down into the front yard and on the street side there is a holding pond in place.

Alex Bitter explained that the stormwater management plan is for 1 inch, and due to the impervious increase of more than 5%, it will need to be the 5-year, 24-hour event stormwater plan.

MOTION BY KEVIN EGAN AND SECONDED BY SEAN WELDON TO APPROVE THE VARIANCE 10-25 (JOHN ALLEN) REQUEST BASED ON THE FINDINGS OF FACT AND CONDITIONS EXPANDED TO MEET THE STORMWATER REQUIREMENTS. MOTION PASSED.

Variance 10-25 (#5c) (Travis Roberts) – to allow a patio in the bluff impact zone and exceeding the allowed 250 square foot size for a Water Oriented Accessory Structure. PID 90-437-1910.

The subject property features an existing non-conforming structure (+/- 5,172 sq. ft.). During an open forum meeting, it was brought to the city's attention that work was being completed on the property without a permit. An on-site visit was conducted on the property. At a previous meeting on 8/11/2025, the Board of Adjustment determined that a violation had occurred with the construction of a patio in the bluff without a permit. The applicant has a septic system installation dated 08/25/2025, which is deemed compliant as documented and provided to the city.

Staff Findings: Staff provides the following findings of fact for discussion and consideration:

1. The subject property is located at 8638 Interlachen Road and is zoned Residential, Medium Density R-2 (Shoreland); (Gull Lake - General Development).
2. The subject property is +/- .69 Acres or 41,580 square feet.
3. The subject property contains an existing non-conforming dwelling with an attached garage with living space.
4. The proposal is for a 392-square-foot Water Oriented Accessory Structure (pervious patio) located in the bluff impact zone (top of the bluff) - Section 17.3.12.5.
5. The subject property has an existing 160 square foot Water Oriented Accessory Structure at the lake. Per Section 17.3.12.4, any combination of facilities listed in 17.3.12.2 or 17.3.12.3, provided that their combined area does not exceed 250 sq. ft.
6. Pervious material utilized for the patio with a maintenance plan submitted to the city.
7. The existing septic system has been inspected and deemed compliant as documented in the most recent compliance inspection provided to the city on 8/25/2025.
8. The total impervious surface for the lot, including the pervious patio provided on the Certificate of Survey received 9/17/2025, is 24.53% where 25% is the maximum impervious surface total for the parcel in the Residential, Medium Density R-2 (Shoreland) zone for a riparian GD lake (stormwater management plan required per section 17.3.3).
9. Section 17.3.12 of the City of Lake Shore ordinance allows each residential lot to have one water-oriented accessory structure or facility if it complies with all requirements of the section. This section does not allow for a 392-square-foot patio and a 160-square-foot covered facility, nor does it allow any structure or facility to be in the bluff impact zone, which can only be approved by means of a variance from the city code requirements.
10. No extensive research was conducted regarding similar structures in similar locations for property within the immediate vicinity of the subject property. A review of aerial imagery obtained from GIS was utilized.
11. A stormwater management plan has been submitted to the city with the variance application and reviewed by the City Engineer.
12. The DNR has been notified of the request, and no comment has been received as of the time this staff report was drafted.
13. The City Engineer has been notified of the request, and the comment received 10/2/2025 stated: "Provide detail on pervious paver installation".
14. Notice of this variance application was published in the local newspaper & distributed to property owners within the required distance to the property (500 ft.). No comments have been received as of the drafting of this staff report.

Potential Findings for approval, for discussion with the Board of Adjustment:

15. Will granting the variance put property to use in a reasonable manner not permitted by the zoning ordinance?

- a. *Yes, to be determined by the Board of Adjustment. ***
- 16. Does the property have unique circumstances that were not created by the landowner?
 - a. *Yes, to be determined by the Board of Adjustment. ***
- 17. If the variance is granted, will the essential character of the locality remain consistent?
 - a. *Yes, to be determined by the Board of Adjustment. ***
- 18. Will the variance, if granted, be consistent with the comprehensive plan and be in harmony with the purpose and intent of the City of Lake Shore ordinances?
 - a. *Yes, to be determined by the Board of Adjustment. ***
- 19. Has the variance request been made based on reasons other than economic considerations alone?
 - a. *Yes, to be determined by the Board of Adjustment. ***

Potential Findings for denial, for discussion with the Board of Adjustment:

- 20. Will granting the variance put the property to use in a reasonable manner not permitted by the zoning ordinance?
 - a. No, the plight of the landowner is due to circumstances created by the landowner proposing a patio that does not meet the bluff setback and is too large per City Code. The intent of the Ordinance is to enforce setbacks to limit environmental concerns and impacts to Gull Lake.
- 21. Does the property have unique circumstances that were not created by the landowner?
 - a. No, the plight of the landowner is due to circumstances unique to the property owner, created by the landowner wanting a large patio that does not meet size requirements, and which is closer to the bluff than allowed by the Ordinance.
- 22. If the variance is granted, will the essential character of the locality remain consistent?
 - a. No, allowing the patio will alter the essential character of the neighborhood.
- 23. Will the variance, if granted, be consistent with the comprehensive plan and be in harmony with the purpose and intent of the City of Lake Shore ordinances?
 - a. No, the variance is not consistent with the comprehensive plan, as allowing a patio over the permitted size and decreasing the bluff setback will not provide adequate environmental considerations.
- 24. Has the variance request been made based on reasons other than economic considerations alone?
 - a. No, the variance is for economic reasons alone, and reasonable use of the property does exist under the ordinance.

Board of Adjustment Direction: The Board of Adjustment may approve, deny, or table the request if additional information is required. If the motion is for approval or denial, findings of fact should be cited to support the motion.

Staff Recommendation: Staff recommends that the Board of Adjustment discuss and provide input regarding the proposed findings for approval and/or denial. The applicant has provided their testimony regarding the practical difficulty with the application provided to the city. The City of Lake Shore zoning ordinance allows for one Water Oriented Accessory Structure (at-grade patio) not exceeding 250 square feet, not in the bluff impact zone, unless allowed by variance.

If the Board of Adjustment wishes to approve the variance request, staff recommends the following conditions of approval:

- 1. All permits and applicable fees must be paid and applied for within two months of this approval.

Nicole Hausmann stated the following items will become part of the record – Notice of mailing, notice of publication, signed application and attachments, staff report and comments received. One written comment was received from the City Engineer which is included in the packet. DNR was notified on September 23rd and received two additional comments over the weekend.

Nicole Hausmann presented Variance 10-25 (#5c).

Nicole Hausmann informed the Planning Commission to review and discuss the application as a variance request, not an after the fact variance.

Nicole Hausmann verified that the shed on the property is an existing legal non-conforming structure so it is not a consideration in this variance.

Travis Roberts shared that he had hired Carter Reece to regrade the property to create a better structure to alleviate water issues and to run the patio back. Travis stated that he put his trust into Carter as Carter was the one speaking with Teri Hastings on the project.

Kevin Egan inquired as to approval for the project from Teri Hastings when she was the City Administrator and if she gave Carter approval for the patio.

Carter Reece responded he did not have approval for the patio.

Alex Bitter commented he saw a maintenance plan on the impervious pavers installation, but he did not see formal details on how it was constructed.

Carter Reece explained the materials used and process of construction.

Jim Woll reminded the public in attendance that comments will be received regarding the variance application and not the civil portion of the issue.

Mark Maki shared his disappointment in not getting the packet information prior to the meeting. Mark Maki approached the water issue and stated the water is running into the lake.

Laura Fussy explained that the packet was too large to put online, and property owners can request a copy of the information they need and it would be sent to them.

Ron Faust stated he lives next to the Roberts' residence and he observed construction beginning and that the Roberts' property level was raised with fill. Ron commented that the water running off the property into the lake would not be a best practice.

Jim Woll reiterated that this issue concerns the patio being constructed without a permit.

Mayor Stewart shared his disappointment in anyone building without a permit.

Committee Members continued discussion regarding the variance and whether it would have been approved before the patio was constructed.

Nicole Hausmann clarified that the stormwater management plan will be mandatory and implemented regardless of approval or denial of the variance.

Jim Woll stated there are three possible decisions in this matter: to deny the variance and removal of the

patio and returned to natural vegetation; grant the variance; or grant the variance with some stipulation for penalty or violation for failing the permit requirement. Jim Woll shared he felt the first decision would be extreme without notification but does feel the message of building without a permit is not acceptable and needs to be conveyed to the community. Jim commented he would be in support of issuance of the variance with some form of penalty to send a signal that what was done is not acceptable.

Kevin Egan referenced the distinct problem of some contractors not respecting the rules.

Jim Woll stated the Committee will break this down into two parts. Decide on the variance approval/denial and then decide on a motion for sanctions, if needed.

MOTION BY SEAN WELDON AND SECONDED BY PJ SMITH TO APPROVE VARIANCE 10-25 (TRAVIS ROBERTS) WITH THE FOLLOWING FINDINGS OF FACT AND CONDITIONS TO ALLOW A PATIO IN THE BLUFF IMPACT ZONE EXCEEDING THE ALLOWED 250 SQUARE FOOT SIZE FOR A WATER ORIENTED ACCESSORY STRUCTURE FOR PID #90-437-1910. THE STORMWATER MANAGEMENT PLAN IS NOT A CONDITION OF APPROVAL, BUT IS REQUIRED FOR THE PERMIT.

Potential Findings for approval, for discussion with the Board of Adjustment:

15. Will granting the variance put property to use in a reasonable manner not permitted by the zoning ordinance?
 - a. Yes, the patio was constructed correctly and with the pervious pavers being used there shouldn't be a problem with the bluff impact zone.
16. Does the property have unique circumstances that were not created by the landowner?
 - a. Yes, the area is in the bluff impact zone and it's not a structure that could create rainwater issues.
17. If the variance is granted, will the essential character of the locality remain consistent?
 - a. Yes, it's not obstructing views by neighbors and not obstructing enjoyment of the lake.
18. Will the variance, if granted, be consistent with the comprehensive plan and be in harmony with the purpose and intent of the City of Lake Shore ordinances?
 - a. Yes, it is in keeping with the woodsy feel and everyone wants their patios for enjoyment.
19. Has the variance request been made based on reasons other than economic considerations alone?
 - a. Yes, we're looking at this as a variance and not an after-the-fact variance and it's within the impact zone and the previous owner built the house prior to the 30 foot setback.

MOTION PASSED.

Jim Woll moved the discussion into the second part of the variance decision regarding assessing a penalty for building the patio with no permit.

Discussion followed regarding sanctioning a penalty.

**MOTION BY KEVIN EGAN AND SECONDED BY PJ SMITH TO IMPOSE THE MAXIMUM SANCTION OF \$1,000.00 FOR FAILING TO SEEK A PERMIT BEFORE CONSTRUCTION.
MOTION PASSED.**

Variance 10-25 (#5d) (Michael Guy Smith) – to construct a new dwelling with an attached garage, an entry, a porch, and a deck not meeting the side yard setback. PID 90-437-1650.

The subject property features an existing legal non-conforming structure (472 sq. ft.) and deck (392 sq. ft.), both of which will be removed. The existing septic system on the property is failing. The applicant has submitted a new septic system dated 9/15/2025 and has been reviewed by Andy Schwartz. Per his comments dated 9/22/2025: “I’d like to see the pressure bed located more than a foot away from the driveway, but it is a tight site and there isn’t much room to do it any other way, so we can allow it. And as indicated in the design, the existing shallow well needs to be capped/sealed. Also, if the new sewer line is less than 50’ from the proposed well, it will need a pressure test. Otherwise, we are good to go.”

Staff Findings: Staff provides the following findings of fact for discussion and consideration:

1. The subject property is located at 8561 Nottingham Rd and is zoned Residential, Medium Density R-2 (Shoreland); (Margaret Lake - General Development).
2. The subject property is +/- .50 Acres (23,552 sq. ft.)
3. The subject property contains a legal existing non-conforming structure that will be removed.
4. The proposed new dwelling with attached garage, entry, porch totaling 2,230 square feet, and a 168 square foot deck is 11 feet from the side yard setback on the north side and south side of the property, where 15 feet is required.
5. The proposed new dwelling with attached garage, entry, porch totaling 2,230 square feet, and a 168 square foot deck will meet the lake setback and road right-of-way setback, per the Certificate of Survey received 9/17/2025.
6. The applicant has provided a new septic design and will be installing a new septic system. The current septic system is failing.
7. The total impervious surface for the lot, including the proposed new dwelling with an attached garage, entry, porch and deck provided on the Certificate of Survey received 9/17/2025, is 23.5% where 25% is the maximum impervious surface total for the parcel in the Residential, Medium Density R-2 (Shoreland) zone for a riparian GD lake (stormwater management plan required per section 17.3.3).
8. No extensive research was conducted regarding similar structures in similar locations for property within the immediate vicinity of the subject property. A review of aerial imagery obtained from GIS was utilized.
9. A stormwater management plan has been submitted to the city with the variance application and reviewed by the City Engineer.
10. The DNR has been notified of the request, and no comment has been received as of the time this staff report was drafted.
11. The City Engineer has been notified of the request, and the comment received on 10/2/2025 stated: “Stormwater retention is to be the 5-year, 24-hour event, not the 1 inch since the impervious is increasing more than 5%”.
12. Notice of this variance application was published in the local newspaper & distributed to property owners within the required distance to the property (500 ft.). No comments have been received as of the drafting of this staff report.

Potential Findings for approval, for discussion with the Board of Adjustment:

13. Will granting the variance put property to use in a reasonable manner not permitted by the zoning ordinance?
 - a. Yes, the applicant is proposing to continue the use of the property as a residential home with an attached garage. The proposal does not come closer to the lake than the existing dwelling. This is also an existing lot of record established prior to zoning regulations.

14. Does the property have unique circumstances that were not created by the landowner?
 - a. Yes, the property is a non-conforming legal lot of record that is very narrow. The proposals will meet the lake and road right-of-way setbacks according to the Certificate of Survey received 9/17/2025.
15. If the variance is granted, will the essential character of the locality remain consistent?
 - a. Yes, constructing the new dwelling will not alter the essential character of the neighborhood. The proposed improvements are consistent with other houses in the vicinity of the subject property.
16. Will the variance, if granted, be consistent with the comprehensive plan and be in harmony with the purpose and intent of the City of Lake Shore ordinances?
 - a. Yes, the request, with conditions, is consistent with the purpose and intent of the zoning ordinance and the following goal in the comprehensive plan, "Support growth patterns that reinforce our lake-oriented and rural development brand." (pg. 5) and "Protect the quality of the lakes and environmental resources within and around the City." (pg. 4)
17. Has the variance request been made based on reasons other than economic considerations alone?
 - a. Yes, the request has been made on factors other than economic considerations. Implementing a stormwater management plan will help protect the water quality of Lake Margaret.

Potential Findings for denial, for discussion with the Board of Adjustment:

18. Will granting the variance put property to use in a reasonable manner not permitted by the zoning ordinance?
 - a. No, the plight of the landowner is due to circumstances created by the landowner proposing a new, bigger dwelling that does not meet the side yard setback. The intent of the Ordinance is to enforce setbacks to limit environmental concerns and impacts on Lake Margaret.
19. Does the property have unique circumstances that were not created by the landowner?
 - a. No, the plight of the landowner is due to circumstances unique to the property owner, created by the landowner wanting a bigger dwelling in this specific location, which is closer to the side yard than allowed by the Ordinance.
20. If the variance is granted, will the essential character of the locality remain consistent?
 - a. Yes, constructing the additions will not alter the essential character of the neighborhood.
21. Will the variance, if granted, be consistent with the comprehensive plan and be in harmony with the purpose and intent of the City of Lake Shore ordinances?
 - a. No, the variance is not consistent with the comprehensive plan, as decreasing the side yard setback will not provide adequate environmental considerations.
22. Has the variance request been made based on reasons other than economic considerations alone?
 - a. No, the variance is for economic reasons alone, and reasonable use of the property does exist under the ordinance.

Board of Adjustment Direction: The Board of Adjustment may approve, deny, or table the request if additional information is required. If the motion is for approval or denial, findings of fact should be cited to support the motion.

Staff Recommendation: Staff recommends that the Board of Adjustment discuss and provide input regarding the proposed findings for approval and/or denial. The applicant has provided their testimony regarding the practical difficulty with the application provided to the city.

If the Board of Adjustment wishes to approve the variance request, staff recommends the following conditions of approval:

1. All construction shall be in substantial conformance with the presented plan as shown. Deviations from the presented plan will require modified approval by the Planning Commission.
2. The variance expires 12 months after approval by the Planning Commission, if the project is not commenced, unless extended per section 70.7 of the Ordinance.
3. Implement an erosion and sediment control plan utilizing best management practices (BMPs) before construction and dirt-moving activities. The city must approve the plan. The BMPs must remain in place until all disturbed soils are stabilized.
4. The proposed downspout gutters and stormwater retention areas, as shown on the stormwater management plan, shall be implemented upon completion of the project if/when a zoning permit is applied for and approved by the City.

Nicole Hausmann stated the following items will become part of the record – Notice of mailing, notice of publication, signed application and attachments and staff report, and comments received. One written comment was received by the City Engineer and is in the packet. DNR was notified on September 23rd and three additional comments have been received.

Nicole Hausmann presented Variance 10-25 (5d).

Robin Carbone referenced the plan for the proposed construction and stated it appears that the plan doesn't adhere to three conditions for a variance. The lot is 50 feet and the house appears to be around 4000 square feet on a small lot.

Todd Pries stated he lives on the south side of the property and feels the house is being built on a small lot and the setbacks will be put closer to his home.

Chuk Batko stated he lives a couple of doors down and the rules have been followed by community members and his concern is that by allowing this build, it will shrink properties down by building larger things on them.

Kathy Lundberg shared concerns about the setback causing homes to be too close together. Kathy also mentioned using the solar energy systems could be decreased.

John Carbone stated this is going to be big home.

Robin Carbone stated concerns regarding drainage coming down the driveway.

Discussion followed regarding size of home to be constructed and meeting setbacks.

MOTION BY KEVIN EGAN AND SECONDED BY DAVE RIEGERT TO DENY VARIANCE APPLICATION 10-25 (MICHAEL SMITH) WITH THE FINDINGS OF FACT IN STAFF REPORT.

Patrick Cline stated his attendance was to verify consistency in the committee's decision to make the denial.

MOTION PASSED.

MOTION BY KEVIN EGAN AND SECONDED BY SEAN WELDON TO CLOSE THE PUBLIC HEARING AT 10:44 AM. MOTION PASSED.

NEW BUSINESS – Sean and Vinci Mills-Deviation from building plans-PID #90-399-0140. Variance approved August 11, 2025, with the following conditions.

Approved Conditions:

1. All construction shall be in substantial conformance with the presented plan as shown. Deviations from the presented plan will require modified approval by the Planning Commission.
2. The variance expires 12 months after approval by the Planning Commission, if the project is not commenced, unless extended per section 70.7 of the Ordinance.
3. The proposed concrete areas marked on the Certificate of Survey as “to be removed” shall be removed within 12 months of the approval of any land use permit related to the proposal in this application and shall be revegetated to adequate standards.
4. The proposed downspout gutters & stormwater retention areas, as shown on the stormwater management plan, shall be implemented upon completion of the project if/when a land use permit is applied for and approved by the City.

Nicole Hausmann referenced Variance 10-25 (Sean and Vinci Mills).

Travis Miller explained the details of the plan to be approved.

MOTION BY PJ SMITH AND SECONDED BY KEVIN EGAN TO APPROVE THE REQUEST BASED ON THE FACT THAT IT IS UNDER THE EAVES AND DOESN'T CHANGE THE GROUND CONFIGURATION AND IS WITHIN THE SETBACKS OF THE ORIGINAL APPROVAL. MOTION PASSED.

OLD BUSINESS – Shon Jensen – Vegetation/Tree Removal – PID #90-409-0010.

- New Business item on May 12, 2025, Meeting
 - The city received a complaint regarding vegetation removal on the bluff. Per the approved minutes, the Planning Commission will review this in six months.
 - The owner purchased the property in January of 2022. Attached is the property survey, along with photos taken from 2022 to 2025, and aerial photos from the Cass County GIS map.

Planning Commission Direction: The Planning Commission will need to determine if a violation of vegetation removal has occurred, and if so, the remedy. The city does have an administrative fine/fee schedule, and corrective action is also an option.

Chair Woll provided a review of a complaint regarding vegetation removal on a property owned by Mr. Jensen. The complaint was reviewed at the May Planning and Zoning Commission meeting and it was discussed whether or not a violation had occurred. Four committee members indicated there was not enough information to make the determination of whether a violation had occurred. Jim Woll recommended that a decision be delayed for six months giving time to the property owner to consider the situation and for the committee members to gather additional information upon which to make a decision.

Shon Jensen inquired into the actual complaint.

Chair Woll indicated the complaint was not in reference to the logs out by the road, but rather for vegetation removal on the bluff and the shore impact zone.

Shon Jensen stated there has been no change to any vegetation in three years as shown in the pictures. Shon believes the complaint is referencing the logs by the road that came down last fall. Shon stated the hillside has not changed in three years.

Discussion followed regarding the southern portion of the property. Committee members shared their confusion in where the clearing in the impact zone occurred.

MOTION BY PJ SMITH AND SECONDED BY SEAN WELDON TO DISMISS THE ISSUE WITH NO FURTHER REQUESTS BASED ON THE FACT THAT THE COMMITTEE ISN'T AWARE OF ANY CLEARING IN THE BLUFF IMPACT ZONE. MOTION PASSED.

REPORTS

City Engineer – Alex Bitter commented on a remark by a community member regarding the total square footage of the house and Alex wanted to be clear that square footage does not transfer to impervious coverage.

Chair – Jim Woll had nothing to report.

Council Liaison – Darcy Peterson – absent.

Zoning Administrator – Nicole Hausmann referenced the September Permit Report. Nicole stated work has been started on creating a potential fee schedule for changing fees for 2026 and once finalized, will do a pre-review with City Council for feedback and will also be brought to Planning Commission in November for feedback.

PUBLIC FORUM –

MOTION BY SEAN WELDON AND SECONDED BY KEVIN EGAN TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF OCTOBER 13, 2025, AT 11:18 AM. MOTION PASSED.

Transcribed by Kathy Johansen
Lake Shore Deputy Clerk