

**BOARD OF ADJUSTMENT/PLANNING COMMISSION
CITY OF LAKE SHORE
LAKE SHORE CITY HALL
MINUTES
JULY 13, 2026
9:00 AM**

Commission Members in attendance: Commission Chair PJ Smith, Dave Riegert, Sean Weldon, TJ Graber, and Alternate Kevin Egan; Council Liaison Darcy Peterson; City Engineer Alex Bitter; and Clerk/Administrator Laura Fussy. Absent was Member Alex Kuhn and Deputy Clerk Kathy Johansen. A quorum was present, and the Commission was competent to conduct business. There were fourteen people in the audience, including Alternate Steve Hensel, David Hempel, Mike Lovelace, Jon Fogarty, Brad McGuire, Reid Price, Ryan Fogarty, Kristy Spratt Marrs, Joseph Lorsung, Tim Moore, Ann Wolfe, and Kathleen, Bob, and Lou Gordon.

Commission Chair Smith called the meeting to order at 9:00 AM.

Approval of the June 8, 2026, Regular Meeting Minutes – MOTION BY SEAN WELDON AND SECONDED BY DAVE RIEGERT TO APPROVE THE MINUTES FOR THE JUNE 8, 2026, BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. MOTION PASSED.

PUBLIC HEARING –

MOTION BY DAVE RIEGERT AND SECONDED BY TJ GRABER TO OPEN THE PUBLIC HEARING AT 9:02 AM. MOTION PASSED.

Variance Application 07-26 – (5a): Zorbaz on Gull Lake Real Estate, Inc requests a variance for road right-of-way setback, parking lot setback, building height, and impervious surface coverage, PID#90-016-2102.

The applicant is requesting the following variances:

1. To construct a 980 square foot addition to the existing restaurant
 - a. Located 19.9 feet from the road right-of-way setback, where 50 feet is required (Section 18.1.1).
2. To allow a parking lot 0 feet from the lot lines, when 10 feet is required (Section 18.1.1).
3. To allow impervious surface coverage of 54.94%, when 20% is allowed by Ordinance (Section 18.1.1).
4. To exceed the allowable building height per Ordinance (Section 18.1.1).

****All per Certificate of Survey and site drawings provided on 6/12/2026.**

The subject property is +/- 2.84 Acres (123,812 sq. ft.) and is zoned Commercial Waterfront (C-W) – Upper Gull Lake (Recreational Development).

The subject property features an existing restaurant. The property uses the city's sanitary sewer system.

The impervious surface coverage is currently 55.01% and will decrease to 54.94% with this request. A stormwater management plan has been submitted with this proposal.

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

1. The subject property is located at 8105 Lost Lake Road and is zoned Commercial Waterfront

District (C-W); (Upper Gull Lake - Recreational Development).

2. The subject property is +/- 2.84 Acres (123,812 sq. ft.).
3. The subject property contains an existing restaurant.
4. The subject property is requesting improvements and additions to the existing building, including a new building entrance to become ADA compliant, including an elevator, fire suppression system, energy-efficient HVAC, stormwater retention, and improvements to the parking lot.
5. The subject property is utilizing the city sewer sanitary system.
6. The total impervious surface for the property is 55.01%, where 20% is the maximum impervious surface total for the parcel in the Commercial Waterfront District; however, with these improvements, the impervious surface coverage would be decreasing to 54.94%.
7. 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.
8. A stormwater management plan has been submitted with the proposal.
9. The DNR has been notified of the request, and no comment has been received as of the time this staff report was drafted.
10. The Cass County Highway Department has been notified of the request, and a comment was received on 6/24/2026 and is included with the packet.
11. The City Engineer has been notified of the request, and no comment has been received as of the time this staff report was drafted.
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 the property to use in a reasonable manner not permitted by the zoning ordinance?
 - a. Yes, granting the variance will allow for a reasonable use of the property not permitted by the zoning ordinance. The subject property is an existing bar and restaurant in the Commercial Waterfront (C-W) District, where such uses are anticipated under Section 18. The proposal allows for reinvestment and continued operation of this established commercial use. Due to the existing site layout and developed conditions, strict compliance with current dimensional standards is not feasible. The requested variances, therefore, enable reasonable use of the property consistent with its historic and current function within the district.
14. Does the property have unique circumstances that were not created by the landowner?
 - a. Yes, the property has unique circumstances that were not created by the landowner. The subject property is a long-established commercial waterfront site on Upper Gull Lake, developed prior to current zoning standards, with an existing layout that includes significant impervious coverage and established setbacks that limit compliance with current dimensional requirements in Section 18.1.1. These conditions are inherent to the property and its historic development pattern, not the result of the current landowner's actions. The site's size, existing structures, and configuration create practical constraints that are unique among properties in the Commercial Waterfront District.
15. If the variance is granted, will the essential character of the locality remain consistent?
 - a. Yes, if the variance is granted, the essential character of the locality will remain consistent. The subject property is an established bar and restaurant located within the

Commercial Waterfront (C-W) District on Upper Gull Lake, where water-oriented commercial uses are anticipated and supported under Section 18 of the Lake Shore Ordinance. The proposed improvements and additions maintain the existing use and are consistent with the site's scale and function. The request does not introduce a new or incompatible use and instead supports the continued operation of a long-standing commercial waterfront establishment. With the proposed site improvements, including stormwater management and infrastructure upgrades, the project will continue to operate in a manner that aligns with the surrounding commercial waterfront.

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, "Review the standards for commercial development to make sure that future commercial development is compatible with adjoining properties and ensure a need exists for such development." (pg. 5) and "Maintain and enhance the appearance, integrity, identity, and character of the City of Lake Shore." (pg. 4)
17. Has the variance request been made based on reasons other than economic considerations alone?
 - a. Yes, the variance request has been made based on reasons other than economic considerations alone. The applicant is proposing improvements to an existing commercial waterfront property, including building updates, site improvements, and the implementation of a stormwater management plan to address drainage and water-quality concerns on the site. The request is driven by the need to update and improve the function, safety, and environmental performance of the existing restaurant, which is consistent with the intent of the Commercial Waterfront District under Section 18. Therefore, the variance is based on practical and site-related considerations beyond economic motivations.

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.

Recommendation: The Board of Adjustment should discuss and provide input on the proposed findings for approval and/or denial. The applicant has provided their testimony regarding the practical difficulties encountered with the application submitted to the city.

If the Board of Adjustment wishes to approve the variance request, the following conditions are recommended with approval:

1. The project shall be constructed and maintained in substantial conformance with the site plan, building plans, and application materials submitted with the Conditional Use Permit application.
2. The applicant shall implement the submitted stormwater management plan, subject to review and approval by the City Engineer, and maintain the system in perpetuity to ensure proper treatment of runoff and protection of Gull Lake water quality.
3. The property owner shall be responsible for implementing and maintaining an erosion and sediment control plan during all phases of construction, including site preparation, grading, excavation, building construction, and final site stabilization. All BMPs shall be installed prior to land disturbance, inspected regularly, and repaired or replaced as necessary to prevent sediment

- from leaving the site. Failure to maintain the approved plan may result in a stop-work order, permit suspension, or other enforcement action by the City until compliance is achieved.
4. Total impervious surface coverage shall not exceed the amount shown in the approved plans and shall remain at or below the proposed percentage identified in the approved plans.
 5. 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.
 6. Approval of this variance does not eliminate the requirement to obtain all applicable land use permits. All construction shall comply with applicable City and State codes and regulations.
 7. Must remain ADA compliant.

Nicole Hausmann stated the following items will become part of the record: Notice of mailing, notice of publication, signed application and attachments, the staff report, and comments received. The DNR, Cass County Highway Department, and city engineer were notified on June 23rd. A comment has been received from the Cass County Highway Department. Nothing was received from the DNR, and the city engineer will provide comments in person. One public comment was received and sent to committee members by email, and has been printed for viewing at the meeting.

Nicole Hausmann presented Variance Application 07-26 – (5a): Zorbaz on Gull Lake Real Estate, Inc.

Mike Lovelace, Project Manager for the Zorbaz remodel project, presented the reason for the project: the building is out of compliance in many areas. Mike focused on several improvements to the project, including water runoff, seating capacity, ADA compliance, a safer work environment for employees, and a more modern appearance.

Alex Bitter commented on the ADA items regarding the slopes and suggested discussing modifications to the slopes.

Kevin Egan referred to the question regarding the signage being in compliance. Mike Lovelace stated that the sign compliance has been addressed. PJ Smith referenced the county engineer regarding the property's lighting.

Nicole Hausmann stated that the existing trailer and outdoor stage constitute an existing non-conformity and are not part of this request.

Tim Moore referenced the comments he had submitted regarding the Zorbaz variance. Discussion followed regarding Tim Moore's comments between the Planning Commission, Zorbaz representatives, and the City.

Nicole Hausmann stated that all requirements have been submitted. If the City does not feel they have adequate information based on the public comments, they are welcome to table the application to update the plans; otherwise, a motion can be made on the current application.

Alex Bitter commented that the applicant is addressing the areas that are being modified. PJ Smith questioned Alex Bitter about being comfortable with the engineering being done on the site. Alex Bitter responded that Widseth has reviewed the plan as a whole, and it seems appropriate for the space it is using.

MOTION BY SEAN WELDON AND SECONDED BY DAVE RIEGERT TO APPROVE VARIANCE 07-26: ZORBAZ ON GULL LAKE REAL ESTATE, INC. FOR THE RIGHT OF WAY SETBACK, PARKING LOT SETBACK, BUILDING HEIGHT, AND IMPERVIOUS SURFACE COVERAGE FOR PID #90-016-2102 WITH THE CONDITIONS SET FORTH BY THE STAFF AND MAKING SURE THE ADA COMPLIANCE IS MET WITH THE MAX OF 2%. MOTION PASSED.

Conditional Use Permit Application 07-26 – (5b): Zorbaz on Gull Lake Real Estate, Inc. requests a Conditional Use Permit for additions to an existing restaurant. PID #90-016-2102.

The applicant is requesting the following Conditional Use Permit:

1. To construct additions to an existing restaurant, including a new building entrance, ADA-compliant access, including an elevator, a fire suppression system, energy-efficient HVAC, and improvements to the parking lot.

The subject property is +/- 2.84 Acres (123,812 sq. ft.) and is zoned Commercial Waterfront (C-W) – Upper Gull Lake (Recreational Development).

The subject property features an existing restaurant. The property uses the city's sanitary sewer system.

The impervious surface coverage is currently 55.01% and will decrease to 54.94% with this request. A stormwater management plan has been submitted with this proposal.

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

1. The subject property is located at 8105 Lost Lake Road and is zoned Commercial Waterfront District (C-W); (Upper Gull Lake - Recreational Development).
2. The subject property is +/- 2.84 Acres (123,812 sq. ft.).
3. The subject property contains an existing restaurant.
4. The subject property is requesting improvements and additions to the existing building, including a new building entrance to become ADA compliant, including an elevator, fire suppression system, energy-efficient HVAC, stormwater retention, and improvements to the parking lot.
5. The subject property is utilizing the city sewer sanitary system.
6. The total impervious surface for the property is 55.01%, where 20% is the maximum impervious surface total for the parcel in the Commercial Waterfront District; however, with these improvements, the impervious surface coverage would be decreasing to 54.94%.
7. 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.
8. A stormwater management plan has been submitted with the proposal.
9. The DNR has been notified of the request, and no comment has been received as of the time this staff report was drafted.
10. The Cass County Highway Department has been notified of the request, and a comment was received on 6/24/2026 and is included with the packet.
11. The City Engineer has been notified of the request, and no comment has been received as of the time this staff report was drafted.
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 Planning Commission:

13. The Conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair values in the immediate vicinity.
 - a. The proposed Conditional Use Permit to allow additions and improvements to the existing Zorbaz on Gull Lake restaurant will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes permitted on those properties, nor will it substantially diminish or impair property values in the immediate vicinity. The subject property is a long-established restaurant use within the Commercial Waterfront District, and the request continues that existing use through building and site improvements, including structural upgrades, accessibility improvements, and parking and site enhancements. The proposed project does not introduce a new or incompatible use and includes site improvements such as stormwater management and a slight reduction in impervious surface coverage, which support compatibility with surrounding properties. Based on the application and staff review, the improvements are consistent with the area's character and will not result in impacts beyond those associated with the existing, legally established use; therefore, the standard is met.
14. The Conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
 - a. The proposed Conditional Use Permit to allow additions and improvements to the existing Zorbaz on Gull Lake restaurant will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area. The subject property is a long-established commercial waterfront restaurant within the Commercial Waterfront (C-W) District on Upper Gull Lake, where water-oriented commercial and recreational uses are anticipated. The proposed project consists of improvements and additions to the existing structure and site, including upgrades to building systems, accessibility, and parking areas, rather than expansion into new or conflicting land uses. The request maintains the existing use and site layout, includes stormwater management, and slightly reduces impervious surface coverage, supporting compatibility with surrounding development patterns. Based on the application materials and staff review, the continued operation and improvement of this established commercial use will not restrict or hinder the development of nearby vacant properties in a manner consistent with the zoning district and the character of the area; therefore, the standard is met.
15. The Conditional requirements at public cost for public facilities and services will not be detrimental to the economic welfare of the community.
 - a. The proposed Conditional Use Permit to allow additions and improvements to the existing Zorbaz on Gull Lake restaurant will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community. The subject property is served by existing public infrastructure, including municipal sanitary sewer, and the proposed project consists of improvements and additions to an established restaurant use within the Commercial Waterfront District. The application includes site and infrastructure upgrades, such as stormwater management, building system improvements, and site circulation enhancements, intended to improve the functionality and efficiency of the existing use rather than requiring new or expanded public services. Based on the staff report and application materials, the continued operation and reinvestment in this long-

standing commercial property will support the local economy and is not expected to result in undue demands on public services; therefore, the standard is met.

16. The Conditional use will have vehicular approaches to the property which are so designed as not to create traffic congestion or indifference with traffic on surrounding public thoroughfares.
 - a. The proposed Conditional Use Permit to allow additions and improvements to the existing Zorbaz on Gull Lake restaurant will have vehicular approaches that are designed so as not to create traffic congestion or interfere with traffic on surrounding public thoroughfares. The subject property is a long-established restaurant accessed from Lost Lake Road within the Commercial Waterfront District, and the proposed project maintains the existing use and general site layout. The application includes improvements to the existing parking lot and site circulation, such as resurfacing and site upgrades, intended to enhance traffic flow and on-site maneuverability rather than intensify use beyond its current operation. Based on the staff report and application materials, the continued use and planned improvements to the site will not create conditions that result in congestion or interference with surrounding roadways; therefore, the standard is met.
17. Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use.
 - a. The proposed Conditional Use Permit to allow additions and improvements to the existing Zorbaz on Gull Lake restaurant includes adequate measures to provide sufficient off-street parking and loading space to serve the proposed use. The subject property is an established restaurant site within the Commercial Waterfront District with existing parking and access arrangements, and the proposed project maintains and improves these features. The application includes improvements to the parking lot, including resurfacing and reconfiguration within the existing site, as well as the reconstruction of the loading area in a similar location and size, which will support continued functionality without intensifying demand beyond current operations. Based on the staff report and application materials, the planned site improvements enhance circulation and usability of the existing parking and loading areas and provide sufficient off-street parking and loading capacity for continued restaurant use; therefore, the standard is met.
18. Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance, and to control lights and signs in such a manner that no disturbance to neighboring properties will result.
 - a. The proposed Conditional Use Permit to allow additions and improvements to the existing Zorbaz on Gull Lake restaurant includes adequate measures to prevent or control offensive odors, fumes, dust, noise, and vibration so as not to constitute a nuisance, and to control lighting and signage in a manner that will not result in disturbance to neighboring properties. The subject property is a long-established restaurant use within the Commercial Waterfront District, and the proposed project consists primarily of upgrades and improvements to the existing building and site, including modernization of mechanical systems, interior renovations, and site improvements. These improvements, including updated HVAC and building systems and overall site rehabilitation, are intended to enhance operational efficiency and reduce potential impacts associated with the existing use. The request does not introduce new or intensified uses beyond the existing restaurant operation, and no evidence has been presented in the application or staff report indicating that the improvements will result in increased nuisance impacts. Based on the application materials and staff review, the proposed improvements will maintain or improve

- existing conditions and will not create nuisance conditions or disturbances to adjacent properties; therefore, the standard is met.
19. The Conditional use will not result in the destruction, loss, or damage of a natural, scenic, or historical feature of major significance.
 - a. The proposed Conditional Use Permit to allow additions and improvements to the existing Zorbaz on Gull Lake restaurant will not result in the destruction, loss, or damage of a natural, scenic, or historical feature of major significance. The subject property is an existing, developed commercial waterfront site on Upper Gull Lake, and the proposed project consists of improvements and additions to the existing structure and site rather than expansion into previously undeveloped areas. The application includes site and building upgrades, such as structural improvements, utility upgrades, and site drainage and stormwater management, intended to maintain and improve existing conditions. Additionally, the project results in a slight reduction in impervious surface coverage and incorporates stormwater management measures, supporting the protection of surrounding natural resources, including Gull Lake. Based on the staff report and application materials, the proposed improvements will occur within an already developed site and will not adversely affect any identified natural, scenic, or historical features of major significance; therefore, the standard is met.
 20. The Conditional use will promote the prevention and control of pollution of the ground and surface waters, including sedimentation and control of nutrients.
 - a. The proposed Conditional Use Permit to allow additions and improvements to the existing Zorbaz on Gull Lake restaurant will promote the prevention and control of pollution of ground and surface waters, including sedimentation and nutrient runoff. The subject property is an existing, developed commercial waterfront site on Upper Gull Lake that is served by municipal sanitary sewer, and the proposed project includes site and infrastructure improvements rather than expanding impervious areas. The application materials indicate that a stormwater management plan has been submitted and that overall impervious surface coverage will be slightly reduced, which supports improved management of runoff and stormwater treatment prior to discharge. Additionally, planned upgrades to site drainage, parking areas, and building systems are intended to improve overall site conditions and reduce the potential for uncontrolled runoff. Based on the staff report and application materials, the proposed improvements are consistent with the goal of protecting Gull Lake water quality and will not contribute to increased pollution; therefore, the standard is met.

Planning Commission Direction: The Planning Commission 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.

Recommendation: The Planning Commission should discuss and provide input on the proposed findings for approval and/or denial.

If the Planning Commission wishes to approve the Conditional Use Permit request, the following conditions are recommended with approval:

1. The project shall be constructed and maintained in substantial conformance with the site plan, building plans, and application materials submitted with the Conditional Use Permit application.
2. The applicant shall implement the submitted stormwater management plan, subject to review and approval by the City Engineer, and maintain the system in perpetuity to ensure proper

treatment of runoff and protection of Gull Lake water quality.

3. Total impervious surface coverage shall not exceed the amount shown in the approved plans and shall remain at or below the proposed percentage identified in the approved plans.
4. The parking lot shall be improved as proposed, including resurfacing and striping as applicable, to maintain safe and orderly traffic flow and adequate off-street parking for the use.
5. The loading and service areas shall be reconstructed and maintained consistently with the approved plans to ensure functionality without negatively impacting adjacent properties.
6. All site access points and internal circulation shall be maintained in a manner that minimizes congestion and ensures safe ingress and egress onto Lost Lake Road, subject to any applicable review by Cass County.
7. All proposed building upgrades, including ADA accessibility (elevator), fire suppression, HVAC, and mechanical systems, shall be completed in accordance with applicable building and state codes.
8. Any new or modified exterior lighting shall be downcast and shielded to prevent glare onto adjacent properties and the lake and shall comply with City ordinance requirements.
9. Any new or modified signage shall comply with the City of Lake Shore Sign Ordinance and shall require separate review and approval if applicable.
10. The use shall be operated in a manner that does not create excessive noise, odor, or other nuisance impacts beyond those typical of an existing restaurant use in the district.
11. The applicant shall obtain all required permits and approvals from applicable agencies, including but not limited to the City Engineer, DNR, and any applicable septic, plumbing, or building authorities.
12. This Conditional Use Permit applies to the existing restaurant use and associated improvements only. Any expansion or change in use beyond what is approved shall require additional review and approval by the City.
13. The property owner shall be responsible for implementing and maintaining an erosion and sediment control plan during all phases of construction, including site preparation, grading, excavation, building construction, and final site stabilization. All BMPs shall be installed prior to land disturbance, inspected regularly, and repaired or replaced as necessary to prevent sediment from leaving the site. Failure to maintain the approved plan may result in a stop-work order, permit suspension, or other enforcement action by the City until compliance is achieved.
14. Failure by the owner to act on a Conditional Use Permit within 12 months, or failure to complete the work under a Conditional Use Permit within two (2) years, unless extended by the Planning Commission, shall void the permit per Section 68.8 of the Ordinance.

Nicole Hausmann stated the following items will become part of the record: Notice of mailing, notice of publication, signed application and attachments, the staff report, and comments received.

Nicole Hausmann presented Conditional Use Permit Application 07-26 – (5b) Zorbaz on Gull Lake Real Estate, Inc.

MOTION BY SEAN WELDON AND SECONDED BY DAVE RIEGERT TO APPROVE CONDITIONAL USE PERMIT APPLICATION 07-26 – (5b) ZORBAZ ON GULL LAKE REAL ESTATE, INC. FOR ADDITIONS TO AN EXISTING RESTAURANT PID #90-016-2102. WITH THE CONDITIONS AND STAFF FINDINGS OF FACT. MOTION PASSED.

Variance Application 07-26 – (5c): Roth, Gregory D., and Nicole E. request a variance to construct a Water Oriented Accessory Structure, which will not meet the side yard setback. PID #90-372-0040.

The applicant is requesting the following variances:

1. To construct a 120 square foot Water Oriented Accessory Structure
 - a. Located 12 feet on the southwest side yard, where 15 feet is required (Section 17.2).

The subject property is 37,709 sq. ft. and is zoned Residential, Medium Density R-2 (Shoreland) – Upper Gull Lake (Recreational Development).

The subject property features an existing legal non-conforming dwelling with an attached deck (1,088 sq. ft. & 3,688 sq. ft.). There are two existing detached garages (1,180 sq. ft.) under a Conditional Use Permit approved in 1985. The applicant has a septic system compliance inspection dated 8/25/2025, which is deemed compliant as documented and provided to the city.

The impervious surface coverage is currently 12.2% and will increase to 12.5% with this request. A stormwater management plan is not required with this request.

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

1. The subject property is located at 7801 Lost Lake Trail and is zoned Residential, Medium Density R-2 (Shoreland); (Upper Gull Lake - Recreational Development).
2. The subject property is +/- .87 Acres (37,709 sq. ft.).
3. The subject property contains a legal existing non-conforming dwelling.
4. The subject property slopes down to Upper Gull Lake. The proposed Water Oriented Accessory Structure would be surrounded by an existing boulder wall.
5. The proposed Water Oriented Accessory Structure will meet the lake setback, per Certificate of Survey received 06/08/2026.
6. There is a Septic Compliance Inspection on file at the city from 08/25/2025.
7. The total impervious surface for the property, including the proposed Water Oriented Accessory Structure, is 12.5%, where 20% is the maximum impervious surface total for the parcel in the Residential, Medium Density R-2 (Shoreland) zone for a riparian RD lake.
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 is not required as the impervious surface coverage is under 20%.
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 no comment has been received as of the time this staff report was drafted.
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 denial, for discussion with the Board of Adjustment:

13. Will granting the variance put the property to use in a reasonable manner not permitted by the zoning ordinance?
 - a. No, granting the variance to allow a Water-Oriented Accessory Structure that does not meet the required side yard setback of the City of Lake Shore Zoning Ordinance will not put the property to use in a reasonable manner not otherwise permitted by the ordinance. The property may be used for reasonable residential and shoreline-related

purposes, provided it complies with the applicable setback requirements. The requested variance represents a preference for a specific location or configuration rather than a necessity to enable reasonable use of the property. Strict application of the ordinance does not prevent the property from being used in a customary and functional manner consistent with the zoning district.

14. Does the property have unique circumstances that were not created by the landowner?
 - a. No, the property does not contain unique circumstances to the land that necessitate the requested variance for a Water-Oriented Accessory Structure that does not meet the side yard setback requirements of the City of Lake Shore Zoning Ordinance. The conditions affecting the property, including its shoreline configuration, are common to other properties in the area and do not constitute a unique hardship. Any limitations on the placement of the proposed structure are not due to exceptional characteristics of the land itself but rather reflect typical development constraints within the zoning district. Therefore, the need for the variance appears to arise from the landowner's preferred placement or design of the structure rather than from unique circumstances not created by the landowner.
15. If the variance is granted, will the essential character of the locality remain consistent?
 - a. No, granting the variance to allow a Water-Oriented Accessory Structure that does not meet the required side yard setback of the City of Lake Shore Zoning Ordinance will alter the essential character of the locality. The reduced side-yard setback would allow the structure to be placed closer to the adjacent property lines than is typical or permitted in the area, resulting in a pattern of development inconsistent with established spacing standards. This deviation may impact neighboring properties and diminish the orderly development and open shoreline character that the ordinance is intended to preserve. As a result, the proposed variance would not be in keeping with the existing character of the surrounding lakefront area.
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. No, granting the variance would not be consistent with the City of Lake Shore Comprehensive Plan nor in harmony with the purpose and intent of the City's zoning and shoreland management ordinances. The Comprehensive Plan and zoning ordinance are intended to promote orderly development, limit nonconformities, and ensure uniform application of development standards within the R-2, Medium Density Residential District. Approval of the requested variance would allow additional deviations from established setback requirements beyond what the ordinance contemplates, thereby weakening the intent of these regulations. As proposed, the variance does not further the purposes of the Comprehensive Plan or the zoning ordinance, and therefore, this criterion is not met.
17. Has the variance request been made based on reasons other than economic considerations alone?
 - a. No, the variance request to allow a Water-Oriented Accessory Structure that does not meet the side yard setback requirements of the City of Lake Shore Zoning Ordinance appears to be based primarily on economic considerations rather than practical necessity. The requested location and configuration of the structure reflect a preference that may enhance the property's value or convenience, but do not demonstrate that compliance with the setback requirements would preclude a reasonable or functional use of the property. As such, the need for variance is not shown to arise from factors beyond economic considerations alone.

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.

Recommendation: The Board of Adjustment should discuss and provide input on the proposed findings for approval and/or denial. The applicant has provided their testimony regarding the practical difficulties encountered with the application submitted to the city.

Nicole Hausmann stated the following items will become part of the record: Notice of mailing, notice of publication, signed application and attachments, the staff report, and comments received. The DNR and city engineer were notified on June 23rd. No public comments had been received at the time the packet was distributed; however, two were received later and were printed for viewing.

Nicole presented Variance Application 07-26 – (5c): Roth, Gregory D., and Nicole E.

Kathleen Gordon presented three concerns regarding the variance: the variance impinges on the lakeshore of their property; there is ample space on the owner's property without easement encroachment; and removal of boulders and trees in the proposed building area as this was not a problem for the owner in projects done on the property in the past six months.

Ann Wolfe questioned why the city has easements and why a variance is required when it's the owner's property and the owner needs to meet the 15-foot setback.

Nicole Hausmann addressed ordinance regulations, setbacks, and variances for the neighbors present.

Ann Wolfe stated there is ample space on the property to move the proposed location of the accessory structure.

Kevin Eagan shared that it was disappointing that the owners weren't at the meeting for the public and commission members to hear the property owner's comments.

PJ Smith verified Ann Wolfe's comments were of the opinion that moving the location over would preserve the land value of the neighboring properties.

Nicole Hausmann verified that she completed an on-site visit with the property owner, took pictures, and shared the property owner's explanation of the location he chose. Nicole explained that the owner might need to move the large boulders and cut down additional trees if the shed were moved to another location.

Tim Moore mentioned the variance shows no hardship, as there are other areas where the structure can be built.

Dave Riegert commented that not having the owners present at the meeting to explain their reasons for seeking the variance makes it difficult to approve it.

Kevin Egan agreed with Dave Riegert that the burden on the applicant had not been met, and their presence would have been very useful.

Sean Weldon agreed on the lack of the owner's presence to defend the variance, and the public comments

causes him to curb his approval.

PJ Smith agreed that the owner needed to prove a need, and it cannot be financial.

MOTION BY KEVIN EGAN AND SECONDED BY DAVE RIEGERT TO DENY VARIANCE 07-26 – (5c) BASED ON THE NO FINDINGS OF FACT IN THE STAFF REPORT. MOTION PASSED.

Variance Application 07-26 – (5d): Marrs, Christopher, and Marrs-Spratt, Kristy request a variance to construct a patio with a fire pit, located in the bluff impact zone. PID #90-340-0190.

The applicant is requesting the following variance:

1. To construct a 160 square foot patio with a fire pit in the bluff impact zone, where no patio is allowed per city ordinance (Section 17.3.12.5)

The subject property is 26,560 sq. ft. and is zoned Residential, Medium Density R-2 (Shoreland) – Upper Gull Lake (Recreational Development).

The subject property features an existing legal non-conforming dwelling with an attached deck (1,316 sq. ft. & 316 sq. ft.). There is an existing detached garage (720 sq. ft.) and storage shed. The applicant has a septic system compliance inspection dated 5/29/2026, which is deemed compliant as documented and provided to the city. The impervious surface coverage is under 20%.

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

1. The subject property is located at 7458 Christy Drive and is zoned Residential, Medium Density R-2 (Shoreland); (Upper Gull Lake - Recreational Development).
2. The subject property is +/- .57 Acres (26,560 sq. ft.).
3. The subject property contains a legal existing non-conforming dwelling that is located in the bluff.
4. The proposed patio with a fire pit will meet the lake and the side yard setback.
5. There is a Septic Compliance Inspection on file at the city from 05/29/2026.
6. The total impervious surface for the property, including the proposed patio with fire pit, is under 20%, where 20% is the maximum impervious surface total for the parcel in the Residential, Medium Density R-2 (Shoreland) zone for a riparian RD lake.
7. 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.
8. A stormwater management plan is not required as the impervious surface coverage is under 20%.
9. The DNR has been notified of the request, and no comment has been received as of the time this staff report was drafted.
10. The City Engineer has been notified of the request, and no comment has been received as of the time this staff report was drafted.
11. 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:

12. Will granting the variance put the property to use in a reasonable manner not permitted by the zoning ordinance?
 - a. Yes, granting the variance to allow a patio with a fire pit located within the bluff impact

zone, where such improvements are not permitted under the City of Lake Shore Zoning Ordinance, will put the property to use in a reasonable manner not otherwise permitted by the ordinance. The requested variance allows the applicants to establish a modest, passive-use outdoor area that supports typical residential enjoyment of the property while responding to the site's topographic constraints. The patio and fire pit are accessory uses commonly associated with residential properties and, given the limitations imposed by the bluff and surrounding terrain, the proposed location represents a practical and reasonable use of the land that would not be feasible without the requested variance.

13. Does the property have unique circumstances that were not created by the landowner?
 - a. Yes, the property contains unique physical circumstances, not created by the landowners, that necessitate the requested variance to allow a patio with a fire pit within the bluff impact zone, where such improvements are not permitted under the City of Lake Shore Zoning Ordinance. The presence and extent of the bluff, along with the property's topography and limited buildable area outside of the bluff impact zone, create constraints on where a safe and functional outdoor space can be reasonably located. These conditions are inherent to the land and not the result of the current property owners' actions.
14. If the variance is granted, will the essential character of the locality remain consistent?
 - a. Yes, granting the variance to allow a patio with a fire pit within the bluff impact zone, where such improvements are not permitted under the City of Lake Shore Zoning Ordinance, will be in keeping with the essential character of the locality. The proposed patio and fire pit are modest residential amenities that are consistent with the recreational use of lakefront properties in the area. While located within the bluff impact zone, the scale and nature of the improvement will not introduce a use or intensity that is out of character with surrounding properties. The variance will not alter the overall residential, natural, and scenic character of the shoreline, and the essential character of the locality will remain consistent.
15. 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)
16. Has the variance request been made based on reasons other than economic considerations alone?
 - a. Yes, the variance request to allow a patio with a fire pit within the bluff impact zone, where such improvements are not permitted under the City of Lake Shore Zoning Ordinance, is based on reasons other than economic considerations alone. The request is driven by the property's physical characteristics, including the location and extent of the bluff, which limit the availability of suitable areas for a functional outdoor space outside the bluff impact zone. The proposed patio and fire pit are intended to provide a usable and safe outdoor amenity that accommodates the site's constraints, rather than to increase property value or reduce costs.

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.

Recommendation: The Board of Adjustment should discuss and provide input on the proposed findings for approval and/or denial. The applicant has provided their testimony regarding the practical difficulties encountered with the application submitted to the city.

If the Board of Adjustment wishes to approve the variance request, the following conditions are recommended with 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. The property owner shall be responsible for implementing and maintaining an erosion and sediment control plan during all phases of construction, including site preparation, grading, excavation, building construction, and final site stabilization. All BMPs shall be installed prior to land disturbance, inspected regularly, and repaired or replaced as necessary to prevent sediment from leaving the site. Failure to maintain the approved plan may result in a stop-work order, permit suspension, or other enforcement action by the City until compliance is achieved.
4. Approval of this variance does not eliminate the requirement to obtain all applicable land use permits. All construction shall comply with applicable City and State codes and regulations.

Nicole Hausmann stated the following items will become part of the record: Notice of mailing, notice of publication, signed application and attachments, the staff report, and comments received. The DNR and city engineer were notified on June 23rd. No public comments have been received.

Nicole Hausmann presented Variance 07-26 – (5d): Marrs, Christopher & Marrs-Spratt, Kristy.

Kristy Spratt-Marrs explained that the property was purchased four years ago and mentioned the hardship of being in the bluff impact zone. The goal is to enlarge and enhance the space using natural boulders and pavers.

Alex Bitter stated that leaving the native grasses in place on the slope is a plus for stabilizing the slope down to the lake.

MOTION BY KEVIN EGAN AND SECONDED BY SEAN WELDON TO APPROVE VARIANCE 07-26 – (5d) WITH THE YES FINDINGS OF FACT AND ADDING A FIFTH CONDITION OF LEAVING THE NATIVE VEGETATION ON THE SLOPE IN PLACE. MOTION PASSED.

MOTION BY SEAN WELDON AND SECONDED BY KEVIN EGAN TO CLOSE THE PUBLIC HEARING AT 10:21 AM. MOTION PASSED.

NEW BUSINESS –

Ernst – Potential Zoning Violation (6a) – PID #90-340-0255

Nicole Hausmann referenced a citizen complaint regarding a neighbor using large boulders and excessive grade. Nicole provided background information, including:

- On-site visit to verify setbacks conducted; additional staking requested on the north side
- 2nd on-site visit conducted to verify side yard setback once staked by the surveyor
- 6/3/2026 - Permit No. 4036 issued for dwelling with attached garage, deck, detached garage, Water Oriented Accessory Structure, and installation of new septic system per approved design.
- 6/16/2026 – Multiple complaints received
- 6/17/2026 – On-site visit conducted by City Engineer

Planning Commission Direction: The Planning Commission will need to determine whether a zoning ordinance violation has occurred and, if so, the remedy.

Nicole Hausmann indicated that staff is requesting a commission review of whether the boulders are considered landscaping or a boulder retaining wall. Based on their review, a determination will be made regarding a zoning violation.

Alex Bitter shared the result of his site visit. Alex Bitter stated the site was very well contained; a small amount of sediment had runoff due to rain, but no other concerns were noted.

Jon Fogarty stated that a stormwater plan for the property will be in place. Jon explained that sand is mixed with the rock to help build up the grade.

Further discussion continued regarding the boulders being added to the property.

Alex Bitter stated that, typically, a retaining wall requires an engineer's design. Boulders are usually not used in a retaining wall. Alex's opinion is that the boulders are not a retaining wall.

MOTION BY DAVE RIEGERT AND SECONDED BY TJ GRABER TO APPROVE THE DETERMINATION THAT THERE HAS BEEN NO ZONING VIOLATION AND NO ACTION IS REQUIRED FROM THE APPLICANTS. MOTION PASSED.

Sean Weldon recused himself from the Planning Commission panel for the next application.

Weldon – Site Sketch Review for Patio (6b) - PID #90-411-0110

Nicole Hausmann presented the Site Sketch Review for a patio.

- There was an approved PUD in the 90s for the townhome project, which included a variance for a 35-foot setback from the ROW (CSAH 77) and a maximum amount of impervious surface of 32%.
- Since this property is a townhome development (PUD), the typical lot areas and widths will not apply. The property owner will need to obtain the Homeowners Association's approval to add a patio.
- The property is served by city sewer.
- Pervious material will be utilized on the property.

Planning Commission Direction: The Planning Commission will need to determine whether a variance is required for impervious surface coverage or whether the proposed patio is permitted.

Nicole Hausmann referenced the impervious revision provided in the packet.

Sean Weldon stated that since adding an addition to their property, their goal is to put in a patio with the extra space.

Nicole Hausmann cited the requirements for the patio that will need to be satisfied.

Alex Bitter stated that it's a unique situation, and Widseth doesn't do much concrete area estimating for this type of site due to potential errors.

MOTION BY TJ GRABER AND SECONDED BY DAVE RIEGERT TO APPROVE NOT REQUIRING A VARIANCE IN THIS PROJECT. MOTION PASSED.

OLD BUSINESS – There was no old business.

REPORTS

City Engineer – Alex Bitter had nothing to report but gave a trail update.

Chair – Chair Smith had nothing to report.

Council Liaison – Darcy Peterson had nothing to report.

Zoning Administrator – Nicole Hausmann referenced the June permits in the packet.

PUBLIC FORUM – There was no public forum.

MOTION BY SEAN WELDON AND SECONDED BY DAVE RIEGERT TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF JULY 13, 2026, AT 10:55 AM. MOTION PASSED.

Transcribed by Kathy Johansen
Lake Shore Deputy Clerk