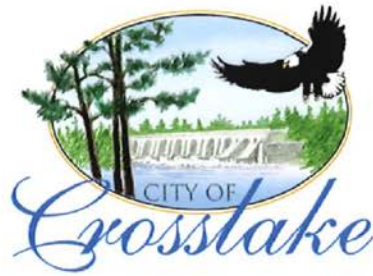


City Hall: 218-692-2688  
Planning & Zoning: 218-692-2689  
Fax: 218-692-2687



13888 Daggett Bay Rd  
Crosslake, Minnesota 56442  
[www.cityofcrosslake.org](http://www.cityofcrosslake.org)

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## **CITY OF CROSSLAKE**

### **PLANNING COMMISSION/BOARD OF ADJUSTMENT**

**June 28, 2024**

**9:00 A.M.**

Crosslake City Hall  
13888 Daggett Bay Rd, Crosslake MN 56442  
(218) 692-2689

### **PUBLIC HEARING NOTICE**

**Applicant:** Trail Properties, Inc

**Authorized Agent:** Peter Beltz

**Site Location:** Moen Beach Trail, Crosslake, MN 56442 on Little Pine Lake - GD

**After-the-Fact Variance for:**

- Lake setback of 46.5 feet where 75 feet is required for a driveway

**To allow:**

- 2,950 square feet of driveway

**Notification:** Pursuant to Minnesota Statutes Chapter 462, and the City of Crosslake Zoning Ordinance, you are hereby notified of a public hearing before the City of Crosslake Planning Commission/Board of Adjustment. Property owners have been notified according to MN State Statute 462 & published in the local newspaper. Please share this notice with any of your neighbors who may not have been notified by mail.

**Information:** Copies of the application and all maps, diagrams or documents are available at Crosslake City Hall or by contacting the Crosslake Planning & Zoning staff at 218-692-2689. Please submit your comments in writing including your name and mailing address to Crosslake City Hall or ([crosslakepz@crosslake.net](mailto:crosslakepz@crosslake.net)).



## STAFF REPORT

Property Owner/Applicant: Trail Properties, Inc

Parcel Number(s): 14100729

Application Submitted: May 13, 2024

Action Deadline: July 13, 2024

City 60 Day Extension Letter sent/ Deadline: NA / NA

Applicant Extension Received / Request: NA / NA

City Council Date: NA

**Authorized Agent:** Peter Beltz

**After-The-Fact Variance for:**

- Lake setback of 46.5 feet where 75 feet is required for a driveway

**To allow:**

- 2,950 square feet of driveway

**Current Zoning:** Shoreland District

**Existing Impervious Coverage:**

2%

**Proposed Impervious Coverage:**

2%

- A stormwater management plan was submitted with the variance application
- There is no septic system on the parcel-septic site suitabilities were submitted

**Parcel History:**

- Vacant parcel
- March 2024- After-the-Fact Variance Denied for driveway lake setback

**Agencies Notified and Responses Received:**

County Highway Dept: N/A

DNR: No comment received before packet cutoff date

City Engineer: N/A

Lake Association: No comment received before packet cutoff date

Crosslake Public Works: No comment received before packet cutoff date

Crosslake Park, Recreation & Library: N/A

Concerned Parties: No comment received before packet cutoff date

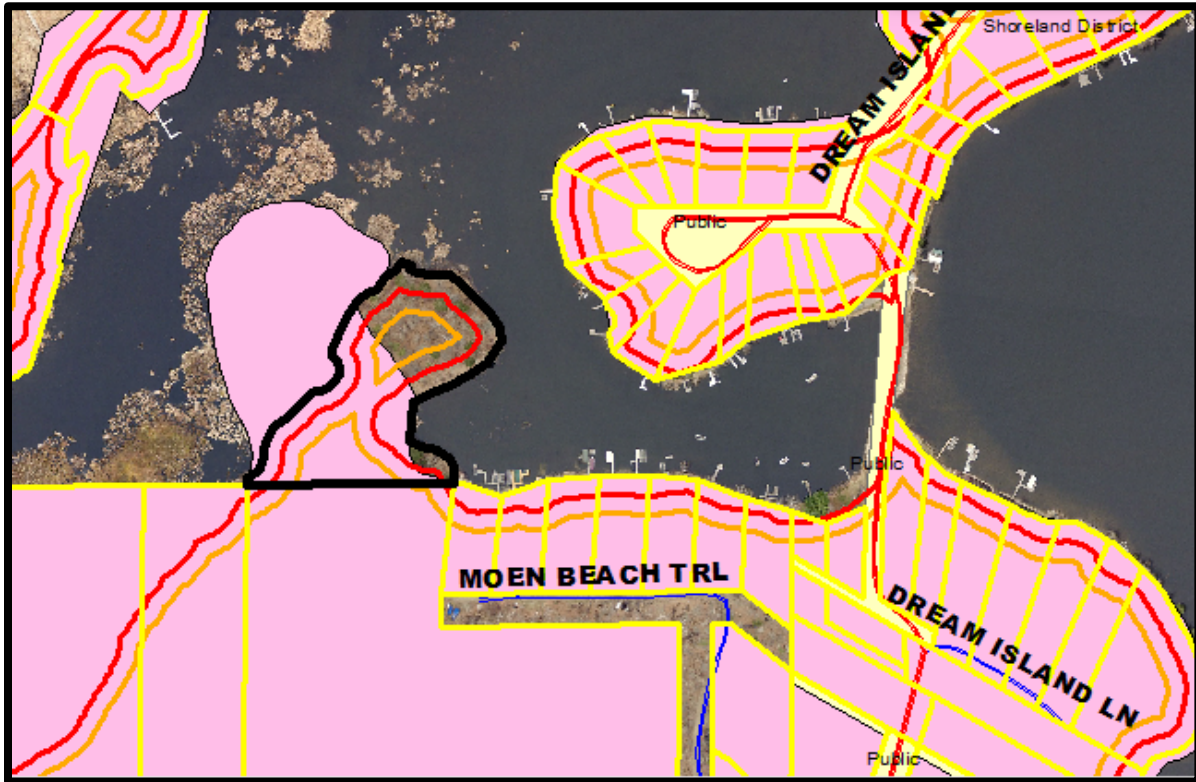
**POSSIBLE MOTION:**

To approve/table/deny the after-the-fact variance for:

- Lake setback of 46.5 feet where 75 feet is required for a driveway

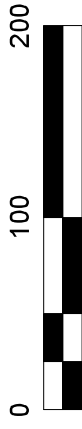
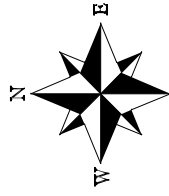
To allow:

- 2,950 square feet of driveway  
As shown on the certificate of survey dated 5-16-2024



# Certificate of Survey

## Part of NW 1/4 - NE 1/4 Part of Section 10 Township 137 Range 27 Crow Wing County, Minnesota

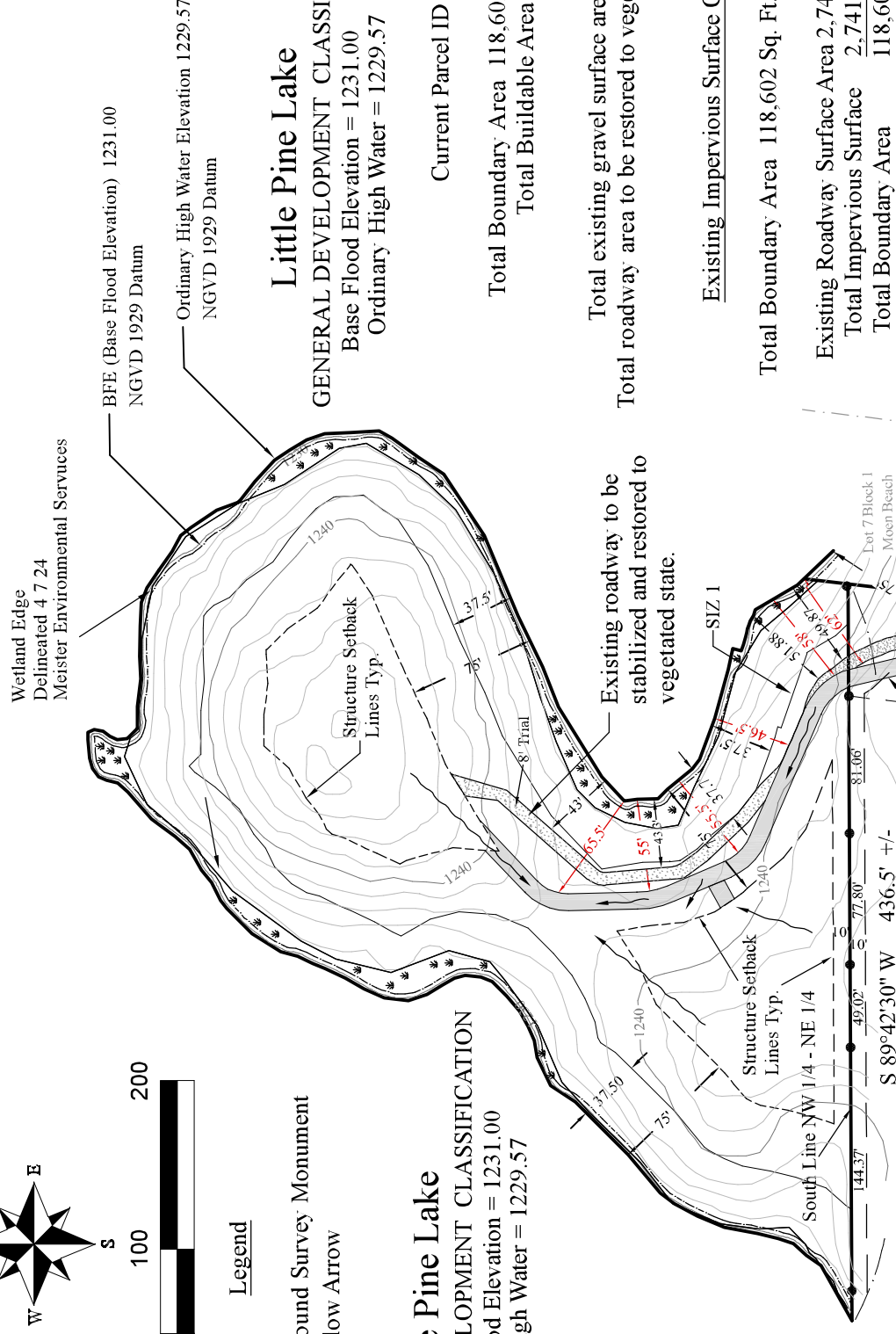


### Legend

- Found Survey Monument
- Flow Arrow

### Little Pine Lake

GENERAL DEVELOPMENT CLASSIFICATION  
100 Year Flood Elevation = 1231.00  
Ordinary High Water = 1229.57



### Little Pine Lake

GENERAL DEVELOPMENT CLASSIFICATION  
Base Flood Elevation = 1231.00  
Ordinary High Water = 1229.57

Current Parcel ID No. 14100729

Total Boundary Area 118,602 Sq. Ft. +/- 2.7 Acres +/-  
Total Buildable Area 26,016 Sq. Ft. +/-

Total existing gravel surface area 2,741 Sq. Ft. +/-  
Total roadway area to be restored to vegetated state 2,472 Sq. Ft. +/-

### Existing Impervious Surface Calculations

Total Boundary Area 118,602 Sq. Ft. +/- 2.7 Acres +/-

Existing Roadway Surface Area 2,741 Sq. Ft. +/-  
Total Impervious Surface 2,741 Sq. Ft. +/- = 0.02 x 100 = 2%  
Total Boundary Area 118,602 Sq. Ft. +/-

### Proposed Impervious Surface Calculations

Total Boundary Area 118,602 Sq. Ft. +/- 2.7 Acres +/-

Proposed Roadway Surface Area 2,950 Sq. Ft. +/-  
Total Impervious Surface 2,950 Sq. Ft. +/- = 0.02 x 100 = 2%  
Total Boundary Area 118,602 Sq. Ft. +/-

### Zoning

Current Zoning Shoreland District  
Setback from property line 10'  
Setback from City or County Road 35'  
Setback from Wetland 15'  
Setback from General Development Lake 75'

### Legal Description

That part of the Northwest Quarter of the Northeast Quarter, Section 10, Township 137 North, Range 27 West, Crow Wing County Minnesota, more particularly described as follows:

Commencing at the southwest corner of Lot 7 Block 1, Moen Beach, according to the plat of record in the office of the County Recorder, Crow Wing County, Minnesota; thence North 07 degrees 12 minutes 54 seconds East 218.32 feet to the South line of said northwest quarter of the northeast quarter, which is the point of beginning of the tract to be described herein; thence North 89 degrees 55 minutes 53 seconds West, along the South line of said northwest quarter of the northeast quarter 436.50 feet, more or less, to the shore of Little Pine Lake; thence northeasterly, easterly, southerly and southeasterly along the shore of Little Pine Lake to the intersection with the northerly extension of the West line of said Lot 7 Block 1 Moen Beach, said line bears North 07 degrees 12 minutes 54 seconds East 15 feet, more or less, from the point of beginning; thence South 07 degrees 12 minutes 54 seconds West, along said West line 15 feet, more or less, to the point of beginning; and

Together with Easement for roadway granted pursuant to Easement dated January 27, 1970, filed February 18, 1970 as Doc. No. 240612 according to the records of the Crow Wing County Recorder.

Easement Document No 240612

That first parties in the consideration of One Dollar (\$1.00) and other good and valuable consideration to them in hand paid by second party, receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the second party, its heirs and assigns, a road easement Sixty-six (66) feet in width over and across the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4), Section Ten (10), Township One Hundred Thirty-seven (137), Range Twenty-seven (27), described as follows:

The extension Westerly and Northerly of Moen Beach Road in the SW 1/4 of NE 1/4, Section 10, Township 137, Range 27, from the Westerly end of said road to the North line of the said SW 1/4 of NE 1/4 as presently established.

### Surveyors Notes:

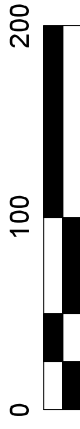
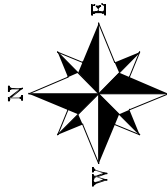
- No bluffs conditions were found on the property
- No aboveground utilities were observed during the survey
- No underground utilities were provided for this survey.
- Topographic contour information was provided by MN Topo 2' Contours NGVD 1929 Datum.
- No Wetlands Have been identified by N.W.I. mapping.
- No Wetlands Have been delineated by a Certified Wetland Delineator.
- No Structures, Wells, Sanitary Sewer Systems are contained within the property boundaries.
- No E911 address is available at this time, no structures are contained within the boundary.
- Dirt moving and fill estimates provided by Pequot Sand & Gravel.

ORIENTATION OF THIS BEARING SYSTEM IS BASED ON THE SOUTH LINE OF THE NW- NE QUARTER TO HAVE AN ASSUMED BEARING OF S 89° 42' 30" W



Signature: *John J. Heintz*  
John J. Heintz, Registered Professional Surveyor  
I hereby certify that this survey was completed by me, or under my direct supervision and that I am a duly licensed Land Surveyor of the State of Minnesota.

Certificate of Survey  
Survey Prepared for: Trail Properties  
9303 Father Foley Drive  
Pine River, MN 56474  
DATE 5/13/2024 SCALE 1" = 100' PROJECT NO. 23-026A

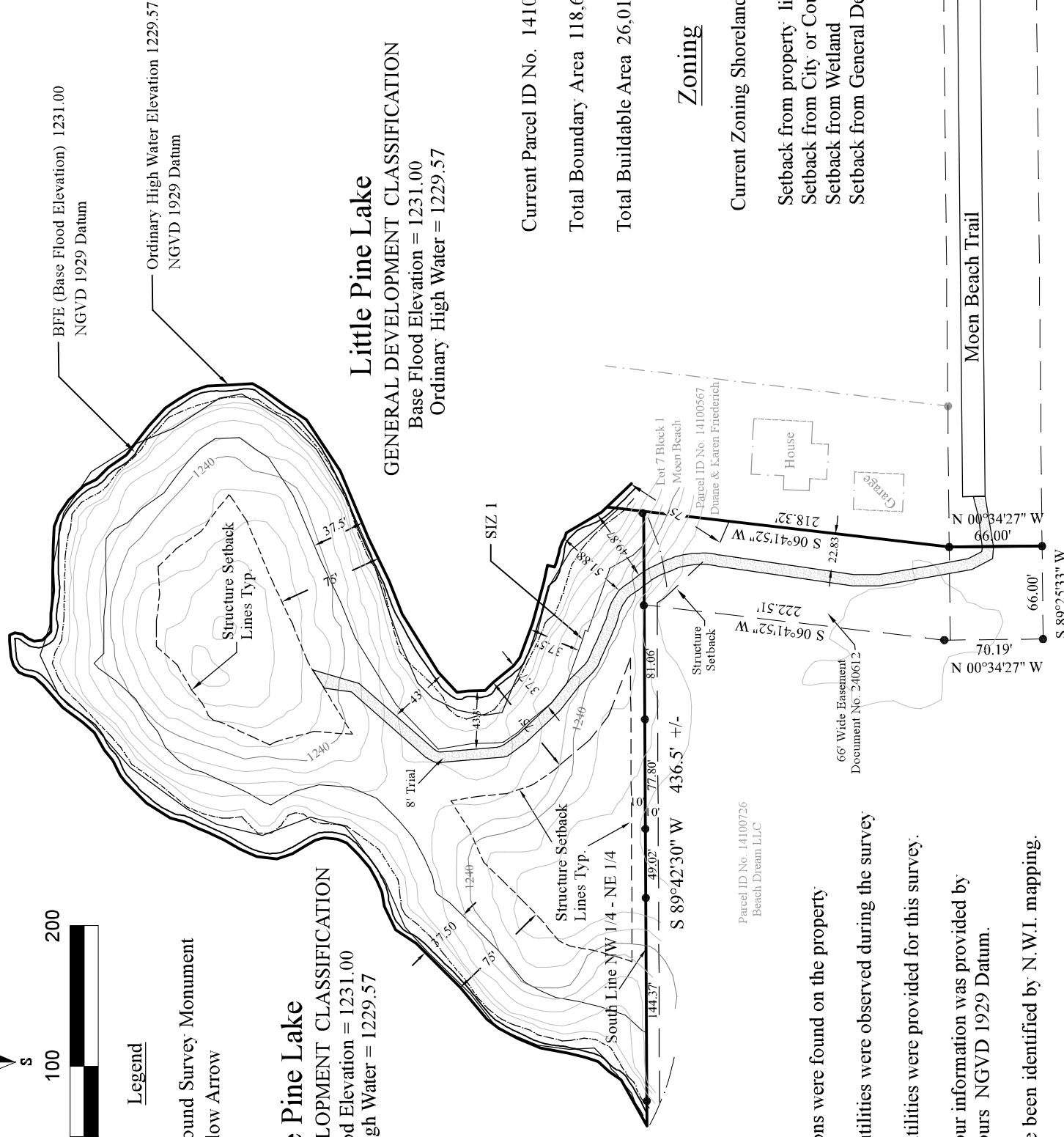


**Legend**

- Found Survey Monument
- Flow Arrow

### Little Pine Lake

**GENERAL DEVELOPMENT CLASSIFICATION**  
 100 Year Flood Elevation = 1231.00  
 Ordinary High Water = 1229.57



### Little Pine Lake

**GENERAL DEVELOPMENT CLASSIFICATION**  
 Base Flood Elevation = 1231.00  
 Ordinary High Water = 1229.57

Current Parcel ID No. 14100729

Total Boundary Area 118,602 Sq. Ft. +/- 2.7 Acres +/-

Total Buildable Area 26,016 Sq. Ft. +/-

### Zoning

Current Zoning Shoreland District

Setback from property line 10'

Setback from City or County Road 35'

Setback from Wetland 15'

Setback from General Development Lake 75'

### Existing Impervious Surface Calculations

Total Boundary Area 118,602 Sq. Ft. +/- 2.7 Acres +/-

Gravel Surface Area 3,407 Sq. Ft. +/-

Total Impervious Surface 3,407 Sq. Ft. +/- = 0.03 x 100 = 3%

Total Boundary Area 118,602 Sq. Ft. +/-

### Surveyors Notes:

No bluffs conditions were found on the property

No aboveground utilities were observed during the survey

No underground utilities were provided for this survey.

Topographic contour information was provided by MN Topo 2' Contours NGVD 1929 Datum.

No Wetlands Have been identified by N.W.I. mapping.

No Wetlands Have been delineated by a Certified Wetland Delineator.

No Structures, Wells, Sanitary Sewer Systems are contained within the property boundaries.

No E911 address is available at this time, no structures are contained within the boundary.

Dirt moving and fill estimates provided by Pequot Sand & Gravel.

# Certificate of Survey

## Part of NW 1/4 - NE 1/4

## Part of Section 10 Township 137 Range 27

## Crow Wing County, Minnesota

### Legal Description

That part of the Northwest Quarter of the Northeast Quarter, Section 10, Township 137 North, Range 27 West, Crow Wing County, Minnesota, more particularly described as follows:

Commencing at the southwest corner of Lot 7 Block 1, Moen Beach, according to the plat of record in the office of the County Recorder, Crow Wing County, Minnesota; thence North 07 degrees 12 minutes 54 seconds East 218.32 feet to the South line of said northwest quarter of the northeast quarter, which is the point of beginning of the tract to be described herein; thence North 89 degrees 55 minutes 53 seconds West, along the South line of said northwest quarter of the northeast quarter 436.50 feet, more or less, to the shore of Little Pine Lake; thence northeasterly, easterly, southwesterly and southeasterly along the shore of Little Pine Lake to the intersection with the northerly extension of the West line of said Lot 7 Block 1 Moen Beach, said line bears North 07 degrees 12 minutes 54 seconds East 15 feet, more or less, from the point of beginning; thence South 07 degrees 12 minutes 54 seconds West, along said West line 15 feet, more or less, to the point of beginning; and

Together with Easement for roadway granted pursuant to Easement dated January 27, 1970, filed February 18, 1970 as Doc. No. 240612 according to the records of the Crow Wing County Recorder.

SHEET 1 OF 2



*John J. Hennig*  
 John J. Hennig, R.S. 11821  
 I hereby certify that this survey was completed by me, or under my direct supervision and that I am a duly licensed Land Surveyor of the State of Minnesota.

**Certificate of Survey**  
 Survey Prepared for: Trail Properties  
 9303 Father Foley Drive  
 Pine River, MN 56474

SCALE 1" = 100' PROJECT NO. 23-026A

Revised	05/16/2024	Proposed Legal Description
Revised	02/10/2024	Revised Driveway, Storm Berm
Revised	02/02/2024	Total Buildable Area

ORIENTATION OF THIS BEARING SYSTEM IS BASED ON THE SOUTH LINE OF THE NW- NE QUARTER TO HAVE AN ASSUMED BEARING OF S 89° 42' 30" W

# Storm Water Prevention Plan

Part of NW 1/4 - NE 1/4

Part of Section 10 Township 137 Range 27

Crow Wing County, Minnesota

Current Parcel ID No. 14100729

Total existing gravel surface area 2,741 Sq. Ft. +/-

Total roadway area to be restored to vegetated state 2,472 Sq. Ft. +/-

(Surface Area) 2,950 x 0.623 = 1838 Gal 245 Cubic Ft. Storage Required

Total Storm Water Treatment Area Provided 359 Cubic Ft.

## Little Pine Lake

### GENERAL DEVELOPMENT CLASSIFICATION

100 Year Flood Elevation = 1231.00

Ordinary High Water = 1229.57

BFE (Base Flood Elevation) 1231.00  
NGVD 1929 Datum

Ordinary High Water Elevation 1229.57  
NGVD 1929 Datum

### Rain Garden #1

Top Elevation 1232 Total Surface Area = 158 sq. ft.  
Bottom Elevation 1231 Total Surface Area = 26 sq. ft.  
Total volume capacity 92 cubic ft. provided

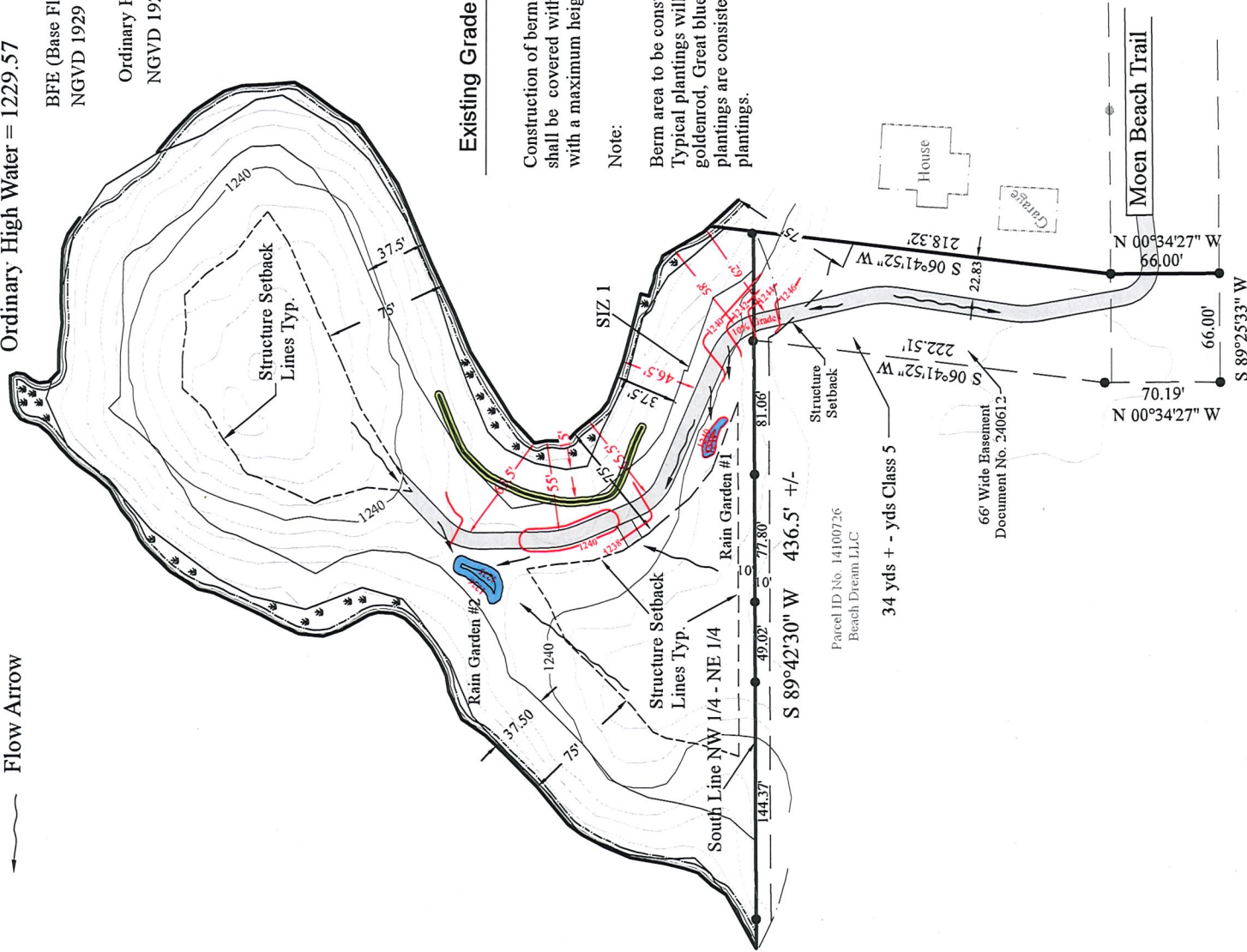
### Rain Garden #2

Top Elevation 1236 Total Surface Area = 438 sq. ft.  
Bottom Elevation 1235 Total Surface Area = 93 sq. ft.  
Total volume capacity 267 cubic ft. provided

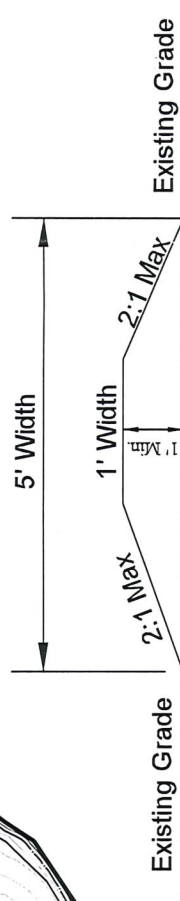


### Legend

- Proposed Contour
- Flow Arrow



### Typical Storm Treatment Construction Detail Typical

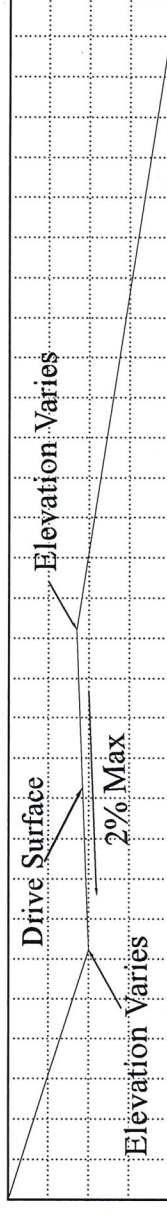


Construction of berm areas are to be completed with minimal disturbance. Completed construction shall be covered with sod, or seed until turf establishment has been obtained. A maximum slope of 3:1 with a maximum height of 1' in the center of the berm area.

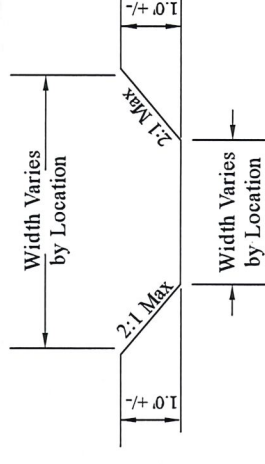
### Note:

Berm area to be constructed 15' from delineated wetlands, augmented with native plantings. Typical plantings will consist of but not limited to the following: American Hazel Nut, Canada goldenrod, Great blue lobelia, Sawtooth sunflower, Redosier dogwood, Sandbar willow. All proposed plantings are consistent with the Minnesota Department of Natural Resources recommended restoration plantings.

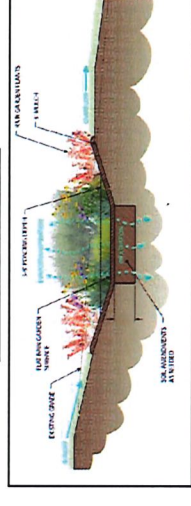
### Typical Cross Section



### Storm Treatment Construction Detail



### Final Rain Garden Detail



### Temporary Erosion Control Notes

- Use of temporary berms, straw bails, or silt fencing to divert flow from unprotected slopes to stabilize ditches, and to divert sediment laden runoff.
- Temporary berms, straw bails, or silt fencing shall be constructed at the top of all erodible cut slopes as designated by Best Management Practices for erosion control methods.
- Stabilize temporary berms outside limits of construction with vegetation or rip rap whenever the profile grade is greater than 5%.
- Construct the temporary berms, roll blankets, or silt fencing outside the limits of construction before actual project construction begins and maintained until spring growing season.
- Maintain the temporary berms, roll blankets, or silt fencing by inspecting after each rainfall and/or repair as needed.
- Temporary berms may remain in place as permanent berms.

### Engineers note:

Additional dirt moving for driveway relocation shall not exceed 50 cubic yards in compliance of with Sec. 26-575 Standards for Dirt Moving Activities in Shoreland Areas  
2) Activities in Shore Impact Zone 2. Dirt moving activities in shore impact zone 2 shall require shoreland alteration permits and meet the following standards:

- Upland Fill. 10 to 50 cubic yards of dirt moving may be permitted. An application must be accompanied by a site plan.
- 20.6 cubic yards of dirt moving is required for Berm Construction. Berm construction shall follow all requirements established in Sec. 26-575 Standards for Dirt Moving Activities in Shoreland Areas

Upland Fill. A total of up to 30 cubic yards of dirt moving may be permitted, including a sand blanket, if applicable. Permit applications must be accompanied by a site plan. Applications to move larger quantities shall be processed as conditional uses.

## Sec. 26-550 Management of Stormwater Facilities

- (1) All storm water management facilities shall be designed to minimize the need for maintenance, to provide access for maintenance purposes and to be structurally sound. All storm water management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in storm water runoff. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the storm water management facilities for inspection and maintenance purposes. The Council may require a developer to enter into a contract providing for access to perform maintenance and inspection to public or private storm water management facilities.
- (2) Newly installed and rehabilitated catch basins shall be provided with a sump area for the collection of coarse grained material as specified by the Department. Such basins shall be cleaned when sediment or other material has accumulated to occupy 25% percent of the basin's original volume.

## Sec. 26-551 Minnesota Pollution Control Agency Permit

Construction activity that results in the disturbance of one or more acres will require a stormwater permit from the Minnesota Pollution Control Agency (MPCA). Construction activity that results in the disturbance of less than one acre may also require a MPCA permit depending on the nature of the activity. Permit applicants are responsible to contact MPCA to determine if a permit is required.

## Secs. 26-552—26-572 Reserved

## ARTICLE 21 DIRT MOVING

The standards in this Article shall apply to all dirt moving activity within the City.

### Sec. 26-573 Policy

It is the policy of the City Council that protection of wetlands, protected waters, sensitive slopes, bluff areas, and related land resources is essential to the welfare of the City and adopts a dirt moving permit review process to protect those resources.

### Sec. 26-574 Applicability and Permits

- (1) The standards in this Article shall apply to all dirt moving activities within the City. Except as specified in 2, a through j below, dirt moving activities shall require permits and may require a site plan, scope of work, and additional supporting documents including, but not limited to, surveys, wetland delineation reports, engineered grading plans with profile view, engineered drainage plans including erosion and sediment control and stormwater management plans according to Article 20 of this Chapter.
- (2) The following activities shall not require a land alteration permit but must meet the provisions of Section 26-575:
  - a) **Dirt moving associated with construction of structures.** Grading, filling, or excavations necessary for construction of structures or septic systems, if part of an approved permit, shall not require a separate shoreland alteration permit.
  - b) **Small landscaping projects.** Placement of up to 10 cubic yards of soil for the creation of a lawn or yard as long as the fill/dirt moving is not located within a bluff impact zone or shore impact zone 1.
  - c) **Private roads or driveways.** The construction of a private driveway, access road, or parking area provided that they:
    - i. Meet all structure setbacks for the land use district in which they are located;
    - ii. Are properly screened from adjacent properties and public waters;
    - iii. Are not located within wetlands;

- iv. Are not in a bluff impact zone or shore impact zone 1 or 2.
- v. No permit is required for resurfacing provided the road or driveway is not expanded.
- d) **Approved agricultural road.** Agricultural roads for machinery, livestock crossings, or shoreline stabilization on agricultural land with a stabilization plan approved by the Department.
- e) **Wetland habitat improvements with approved plan.** The creation of wetland habitat improvements, except in shore impact zone 1, by way of excavation/dredging of wetlands, consistent with the provisions of the Minnesota Rules, Chapter 8420. Spoils shall be deposited in a manner consistent with this Article and shall require a land alteration permit from the City if the deposits occur in the Shoreland District.
- f) **Approved agricultural improvements.** The construction of livestock watering ponds and conservation projects approved by the Natural Resource Conservation Service (NRCS), Soil and Water Conservation District (SWCD) and/or other regulatory agencies, only in the RLZ or non-shoreland districts.
- g) **Rip rap that meets standards.** Placement of natural rock rip-rap, including the necessary grading of the shoreline and placement of a filter blanket is allowed if it meets all applicable DNR rip-rap requirements and is not in wetlands.
- h) **Wetland Replacement Plan.** A shoreland alteration permit is not required if a wetland replacement plan, exemption or no-loss has been approved pursuant to Minnesota Rules Chapter 8420. This dirt moving activity does not apply towards the cumulative amount prescribed in Section 26-575 of this article.
- i) **Normal Agricultural Practices:** To include but not be limited to tillage, planting, harvesting, fencing, and proper disposal of animal mortalities pursuant to all state and federal agricultural regulations.
- j) **Existing Sand Blankets / Beaches:** A shoreland alteration permit shall not be required to place 10 cubic yards of sand annually on an existing sand blanket / beach on residential parcels located in the shoreland district. A shoreland alteration permit shall not be required to place 50 cubic yards of sand annually on an existing sand blanket / beach on parcels located in the waterfront commercial, or other water oriented commercial uses with an approved conditional use permit. A shoreland alteration permit shall be required for new sand blankets or expansions to existing sand blankets and shall be subject to 26-575 1a.

## Sec. 26-575 Standards for Dirt Moving Activities in Shoreland Areas

- (1) **Activities in Shore Impact Zone 1.** Dirt moving activities in shore impact zone 1 shall require shoreland alteration permits and meet the following standards:
- a) **Sand Blanket.**
    - i. The maximum dimensions shall not exceed 30 percent of the total lot width by 25 feet landward from the OHWL and shall be located within the shoreline recreation use area. The maximum width of a sand blanket created under this Article shall not exceed 200 feet.
    - ii. The natural slope of the area under the sand blanket shall be less than 10 percent. The sand shall be clean with minimal amounts of organic materials.
    - iii. Sand blankets shall be limited to 10 cubic yards annually.
  - b) **Upland Fill.** A total of up to 30 cubic yards of dirt moving may be permitted, including a sand blanket, if applicable. Permit applications must be accompanied by a site plan. Applications to move larger quantities shall be processed as conditional uses.
  - c) **No wetland filling shall be allowed in shore impact zone 1.**
  - d) **Annual Ice ridges.** Annual Ice Ridges may be regraded to their original shoreline contour without a shoreland alteration permit provided that the work is completed in the year in which the annual ice ridge occurred. Any such regrading shall meet the following standards:
    - i. There shall be no topsoil or vegetative matter deposited in the lake.
    - ii. Any dirt moving from regrading the annual ice ridge that is used on the remainder of the property shall require a shoreland alteration permit.
    - iii. Depositing any sand below the OHWL is subject to DNR public waters permit rules.

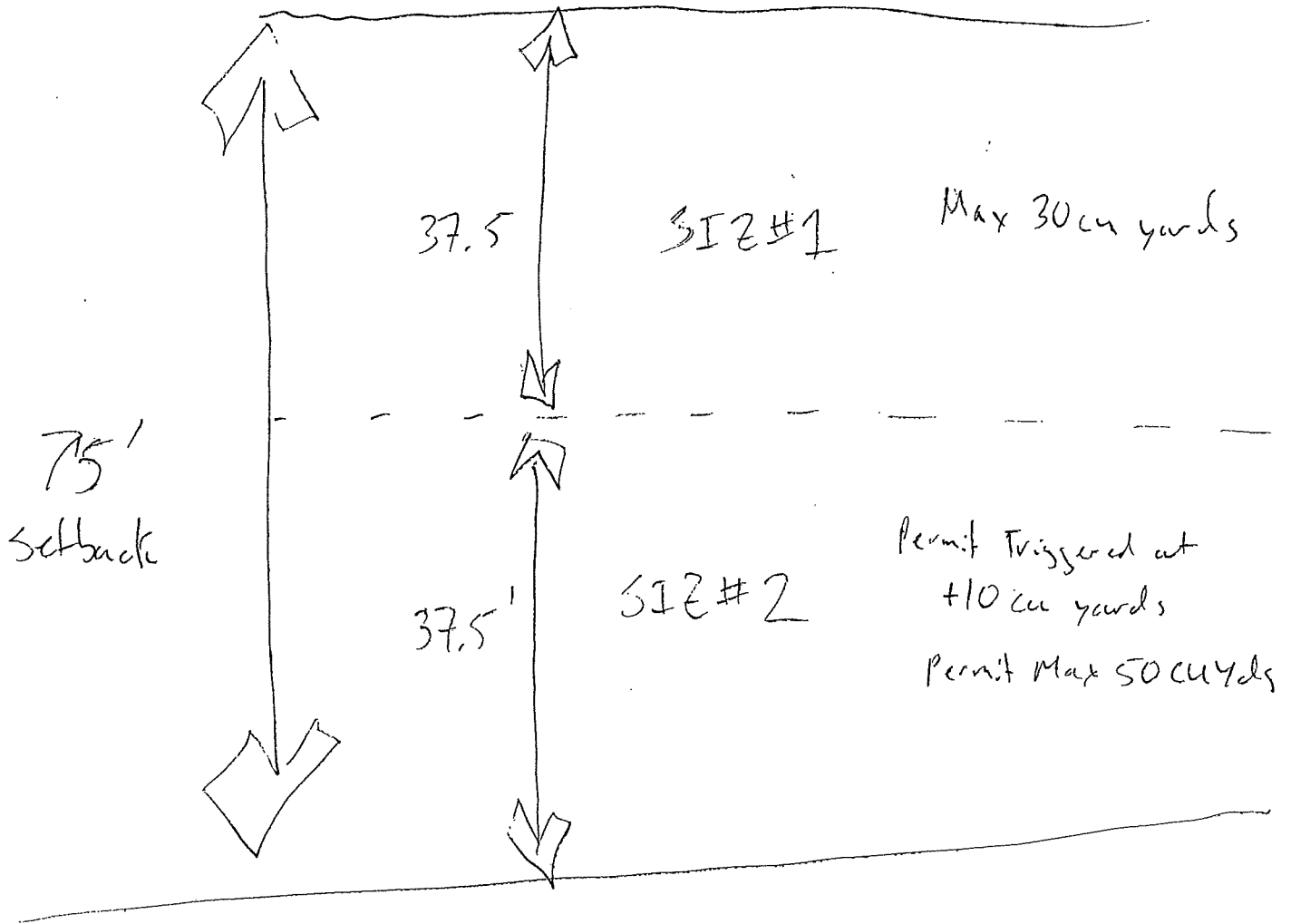


- iv. Temporary erosion and sediment control best management practices shall be implemented.
- e) **Historic Ice Ridges.** On those ice ridges with well-established vegetative cover, alterations for lake access shall require a shoreland alteration permit and comply with the following standards:
  - i. One alteration site is allowed per conforming residential lot, single nonconforming lot of record, or per group of contiguous nonconforming lots in the same ownership.
  - ii. On residential lots, the bottom width shall not exceed 15 feet, with side slopes no steeper than 2:1 at each end.
  - iii. On waterfront commercial lots, the maximum bottom width shall be 25 feet with 2:1 side slopes at each end.
  - iv. Berms of not less than 12 inches above grade level or diversions not less than 12 inches below grade level shall be placed landward of all ice ridge alterations to prevent erosion from upland runoff.
  - v. A stormwater management plan meeting the standards of Article 20 of this Chapter must be approved by the Department prior to any dirt moving.
  - vi. All disturbed material shall be graded landward or removed from the site.
  - vii. Any alteration below the OHWL may require approval from the Department of Natural Resources and/or U.S. Army Corps of Engineers.
- (2) **Activities in Shore Impact Zone 2.** Dirt moving activities in shore impact zone 2 shall require shoreland alteration permits and meet the following standards:
  - a) **Upland Fill.** 10 to 50 cubic yards of dirt moving may be permitted. An application must be accompanied by a site plan.
  - b) Applications to move larger quantities shall be processed as conditional uses.
- (3) **Activities in the Rear Lot Zone (RLZ)** Dirt moving activities in the rear lot zone shall require shoreland alteration permits and meet the following standards:
  - a) 10 to 100 cubic yards of dirt may be moved with a permit.
  - b) Moving larger quantities shall be processed as conditional uses.

## Sec. 26-576 Standards for Dirt Moving Activities in Non-Shoreland Areas

- (1) **Rural Residential District-5.** Dirt moving activities in the Rural Residential-5 District shall require land alteration or conditional use permits and meet the following standards:
  - a) A land alteration permit is required for projects that involve the movement of over 200 cubic yards of dirt.
  - b) A conditional use permit is required for projects that involve the movement of over 1000 cubic yards of dirt.
  - c) No wetland filling shall be allowed except in accordance with the provisions of the Minnesota Rules, Chapter 8420.
  - d) Temporary erosion and sediment control best management practices shall be implemented.
- (2) **Limited Commercial District.** Dirt moving activities in the Limited Commercial District shall require land alteration or conditional use permits and meet the following standards:
  - a) A land alteration permit is required for projects that involve the movement of over 100 cubic yards of dirt.
  - b) A conditional use permit is required for projects that involve the movement of over 500 cubic yards of dirt.
  - c) No wetland filling shall be allowed except in accordance with the provisions of the Minnesota Rules, Chapter 8420.
  - d) Temporary erosion and sediment control best management practices shall be implemented.
- (3) **Downtown Commercial District.** Dirt moving activities in the Downtown Commercial District shall require land alteration or conditional use permits and meet the following standards:
  - a) A land alteration permit is required for projects that involve the movement of over 50 cubic yards of dirt.
  - b) A conditional use permit is required for projects that involve the movement of over 200 cubic yards of dirt.

Little Pine  
LAKE



Exempt permit per 26-574

**Exhibit A**

City of Crosslake Planning Commission/Board of Adjustment, Meeting Decision and Findings of Fact, March 22, 2024



Meeting Decision

March 22, 2024

Trail Properties Inc  
9303 Father Foley Drive  
Pine River, MN 56474

PID# 14100729

Your after-the-fact variance application has been approved on March 22, 2024 by the Planning Commission/Board of Adjustment. You are required to obtain all permits prior to construction activities. Any modifications to this after-the-fact variance approval will require the after-the-fact variance to be amended.

Your after-the-fact variance application has been denied on March 22, 2024 by the Planning Commission/Board of Adjustment.

Your after-the-fact variance application has been approved and amended by the Planning Commission/Board of Adjustment as stated in the minutes of March 22, 2024. You are required to obtain all permits prior to construction activities. Any modifications to this after-the-fact variance approval will require the after-the-fact variance to be amended.

Your after-the-fact variance application has been postponed on March 22, 2024 by the Planning Commission/Board of Adjustment.

March 22, 2024

Date

\_\_\_\_\_  
Planning Commission/Board of Adjustment, Chair



City of Crosslake Planning Commission/Board of Adjustment

After-The-Fact Variance Application

Findings of Fact

Supporting/Denying an After-The-Fact Variance

*An After-the-Fact Variance may be granted by the Planning Commission/Board of Adjustment when it is found that strict enforcement of the Land Use Ordinance will result in a "practical difficulty" according to Minnesota Statute Chapter 462. The Planning Commission/Board of Adjustment should weigh each of the following questions to determine if the applicant has established that there are "practical difficulties" in complying with regulations and standards set forth in the Land Use Ordinance.*

1. Is the After-the-Fact Variance request in harmony with the purposes and intent of the Ordinance?

Yes            No X

Why?

- The driveway encroaches too close to the OHW.
- It is within the SIZ2 zone which is in violation to the land use ordinance.

2. Is the After-the-Fact Variance consistent with the Comprehensive Plan?

Yes            No X

Why?

- The Proposal is insufficient, lacking the information needed and is within the ordinance setbacks.
- Not preserving and enhancing the shoreland has the potential to harm the water quality.

3. Is the property owner proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance?

Yes            No X

Why?

- Proximity to the water and infringing on SIZ 2
- Encroaching on the lake and the plan is insufficient

4. Will the issuance of an After-the-Fact Variance maintain the essential character of the locality?

Yes            No X

Why?

- No similar structures in the area
- No similar land use patterns and no similarities in the SIZ 2 or SIZ 1 zone
- Doesn't maintain the essential character of the land

5. Is the need for an After-the-Fact Variance due to circumstances unique to the property and not created by the property owner?

Yes  No

Why?

- Homeowners did not create the issues of the unique lot.

6. Does the need for an After-the-Fact Variance involve more than economic considerations?

Yes  No

Why?

- The variance is needed to protect the water quality of the lake.

7. Did the applicant fail to obtain a variance/or comply with the applicable requirements before commencing work? (Whether the applicant acted in good faith should be considered in the analysis of this factor)

Yes No

Why?

- No attempt was made to obtain a variance for the driveway.

-

8. Did the applicant attempt to comply with the Ordinance by obtaining the proper permits?

Yes No

Why?

- The road was put in before any attempt to discuss with the city prior to the driveway being installed.

-

9. Did the applicant make a substantial investment in or improvement to the property?

Yes No

Why?

- Did not attempt to act in good faith to acquire a permit prior to placement of driveway.

10. Are there other similar structures in the neighborhood?

Yes No

Why?

- There are no other similar structures that are non-conforming.

11. Would the minimum benefits to the City appear to be far outweighed by the detriment the applicant would suffer if forced to move or remove the structure?

Yes No

Why?

- The intent of the ordinance is to maintain setbacks and it would not be in the best interest of the city to allow to remain because of managing the shoreland area.

**Exhibit B**

City of Crosslake Planning Commission Board of Adjustment, Meeting Minutes from March 22,  
2024 Meeting



## STATED MINUTES

### City of Crosslake Planning Commission/Board of Adjustment

March 22, 2024  
9:00 A.M.

Crosslake City Hall  
13888 Daggett Bay Road  
Crosslake, MN 56442

1. Present: Chair Bill Schiltz; Vice-Chair Jerome Volz; David Fuhs; Kristin Graham; Joseph O'Leary; Alternate Joel Knippel and Liaison Council Member Aaron Herzog

Absent: None

Staff: Paul Satterlund, Planning & Zoning Administrator and Cheryl Stuckmayer, Planner-Zoning Coordinator

2. 2-23-2024 Minutes – **Motion by Volz; supported by Fuhs to approve the minutes as written. All members voting “Aye”, Motion carried.**

#### VARIANCE APPLICATIONS

Staff does not make decisions as to whether a variance application gets approved or denied. Staff's job is to inform the applicant of the requirements for submitting a variance, assess whether the application is complete when it is submitted and then presenting the facts of the application to the Planning Commission/Board of Adjustment (PC/BOA).

The PC/BOA determines whether they approve or deny an application at the public hearing as per Minnesota Statute 462 and the Crosslake Land Use Ordinance.

Through the process, staff does try to recommend different solutions and gives their opinion as to whether the PC/BOA may approve or deny the application, but they cannot reject a completed application. Even if staff feels that the application may be denied by the PC/BOA, they are obligated to accept the application and bring it to the PC/BOA. Should staff reject a completed application, they would open the city up to being sued by the applicant. Every property owner has the right to ask for a variance per Article 8 of the Land Use Ordinance.

Anyone that feels the PC/BOA has erred and would like to appeal their decision, also have the right to Appeal that decision per Article 8 of the Land Use Ordinance.

3. Old Business-Variations are heard on their individual requests, past variations hold no precedents. Commissioners may table the request if needed and an applicant can withdraw their request. If the variance(s) is/are approved, all existing nonconformities will be eliminated and will hereafter be required to follow the variance decision. If a variance is denied the applicant can rebuild the nonconformity as is per the Crosslake Ordinance.
  - 3.1 None
4. New Business
  - 4.1 Trail Properties, Inc – After-the-face Variance for driveway within the lake setback
5. Other Business



March 22, 2024 Planning Commission/Board Of Adjustment Meeting

5.1 Staff report

6. Open Forum – No action will be taken on any of the issues raised. If appropriate, the issues will be placed on the agenda of a future PC/BOA meeting. Speakers must state their name and address. Each speaker is given a three minute time limit.

7. Adjournment

**Trail Properties, Inc  
14100729**

Schiltz announced the after-the-fact (atf) variance request. Satterlund read the atf variance request, notices sent out per city ordinance and Minnesota State Statue 462 requirements, project details, impervious percentage, stormwater management plan (SWMP) submitted, one comment received, and no history on the vacant parcel, into the record. Discussion held on water runoff towards the wetland/lake; existing access's ability to accommodate large vehicles (construction, emergency); SIZ 1 versus SIZ2 uses; berm location between lake and driveway; driveway slants towards lake – erosion into lake concerns; stormwater management plan; placement of road; at on-site meeting mentioned possible relocation of a part of the driveway; trees were left-but they could be cut down for this or other reasons in the future; look into purchasing additional property to extend the existing easement; look into options; at the on-site meeting a retaining wall was talked about and the possible difficulties with install; and any change of the driveway within the setback would require another variance. Schiltz invited McCormick / Beltz, the applicant/owner's representatives to the podium. Beltz, attorney: the use of practical difficulty; property easement does not allow the driveway to be constructed outside of the setback; erosion seems to be the concern; unfortunate how it played out – the packet provides context and the engineered stormwater plan. McCormick, of Land Design Solutions: the submitted SWMP was done by a licensed engineer; berms are partially in the SIZ1 according to the specs on the submission; city comprehensive plan – prefers not to have disturbance of existing trees and vegetation; details of the existing SWMP; options to change/amend the SWMP; possibility of a retaining wall and it's affects; tree roots are important to stabilize the ground; 2 building sites that meet the required size; lot done in the 1970's; and moving driveway could be done. Schiltz opened the public hearing. Friederich: live 20 feet from property; called with concern when commercial vehicles started doing work; concerned McCormick should have contacted the city to discuss the driveway project to follow the rules since he has a history and knowledge of the process; living next door anything that runs in the lake will affect us; we pay a lot just to keep the bay open; main thing is they should have sat down with the city and done it the way it should be; lake quality has depreciated so much already; they should go back to the drawing board and protect the water. McCormick: his company staked the easement but was not aware it was to continue to a building site. Beltz: clarified the documentation; no ill will; did not try to take advantage of the property/neighbor/city; detailed the activities and timeline of the project; Camp Foley appreciates this project being brought to the city; we are good stewarts of the environment; and McCormick was not involved in anyway with putting the driveway in. Savageau, possible purchaser: after the on-site meeting he had a discussion; he does business here; drew up some different alternate plans; possible conditions could be placed; and added detail on possible changes that could be done. Volz of Moen Beach: should not dismiss the DNR comment(s); wetland/lake concerns; and erosion should be addressed. Beltz: wetland in conjunction to the project area; proposed conditions; and went through the difficulty questions. Commission stated they were deprived of the original opportunity to look at the project before construction; acknowledged there is difficulty; would this be approved if the ask was before it was completed; and is this the best route to use. Friederich: 25 truck loads were dumped. Nevin of South Landing: silt fence should be put in place.

O'Leary motioned to table Trail Properties, Inc, supported by Volz.

**All members voting "2:3", O'Leary & Volz in favor with Schiltz, Knippel & Fuhs opposed: Motion denied.**

March 22, 2024 Planning Commission/Board Of Adjustment Meeting

O'Leary motioned to have Trail Properties, Inc install a silt fence for erosion control by April 15, 2024, supported by Volz.

**All members voting "Aye", Motion carried.**

**March 22, 2024 Action:**

**Motion by Volz; supported by Fuhs to deny the after-the-fact variance for:**

- Lake setback of 37.7 feet where 75 feet is required for a driveway

**To allow:**

- 3,407 square feet of driveway

Per the findings of fact as discussed, the on-site conducted on 3-21-2024 and as shown on the certificate of survey received at the Planning & Zoning office dated 2-10-2024 for property located off of Moen Beach Trail, City of Crosslake

**Findings: See attached/packet**

**All members voting "Aye", Motion carried.**

Fuhs motioned to have Trail Properties, Inc resubmit by May 13, 2024 for the June 28, 2024 meeting, supported by O'Leary.

**All members voting "Aye", Motion carried.**

**Other Business:**

Staff report

Monthly city council report

Development Review Team (DRT) had 2 March monthly meetings

Permits – Crosslake Rental area to install a new business – Flow Docks

Next Month:

April 8 – Public Hearing Application deadline

April 8 – City Council Meeting

April 9 – Development Review Team (DRT)

April 25 – On-site visit

April 26 – PC/BOA Meeting

**Open Forum:**

1. Nevin, Crosslake Mayor: Charging for public hearings of \$750.00 is the right thing to do; receiving round about calls

**Matters not on the Agenda:**

1. There were no matters not on the agenda

**Motion by Knippel; supported by O’Leary to adjourn at 11:25 A.M.**

**All members voting “Aye”, Motion carried.**

Respectfully submitted,

*Cheryl Stuckmayer*

Cheryl Stuckmayer  
Planner-Zoning Coordinator

**Exhibit C**  
Similar Existing Structures

## Aerial of Moen Beach Trail and Dream Island Neighborhoods



### Key

- Yellow Lines – 75' setback line
- Red Lines – Portions of Dream Island Road within the 75' setback
- Purple Area – TPI Property

### Aerial of Moen Beach Trail and Dream Island Neighborhoods – Moen Beach Trail Neighborhood



#### Key

- Yellow Lines – 75' setback line
- Red Lines – Portions of Dream Island Road within the 75' setback

**Aerial of Moen Beach Trail and Dream Island Neighborhoods – Southend of Dream Island**



Key

- Yellow Lines – 75' setback line
- Red Lines – Portions of Dream Island Road within the 75' setback
- Purple Area – TPI Property



**Aerial of Moen Beach Trail and Dream Island Neighborhoods – Middle of Dream Island**



Key

- Yellow Lines – 75' setback line
- Red Lines – Portions of Dream Island Road within the 75' setback

**Aerial of Moen Beach Trail and Dream Island Neighborhoods – Northend of Dream Island**



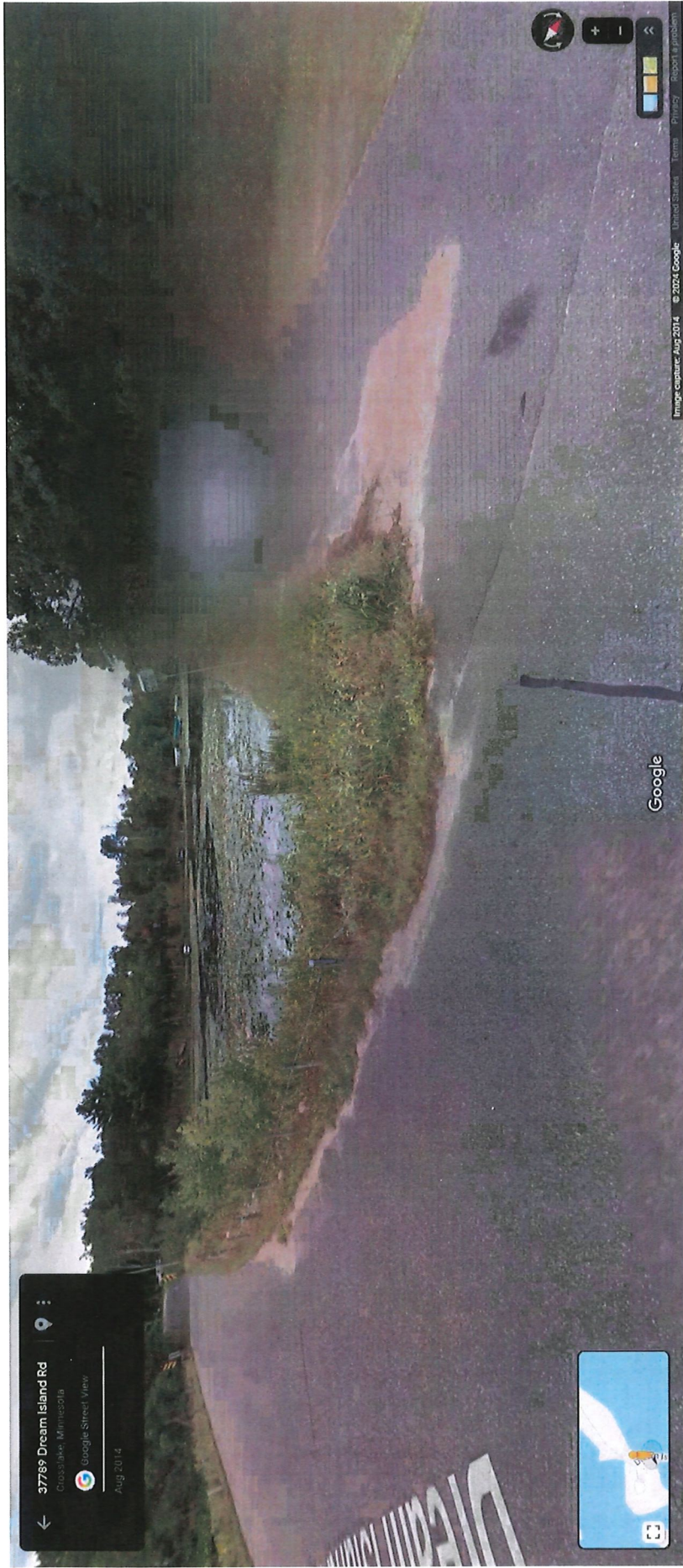
Key

- Yellow Lines – 75’ setback line
- Red Lines – Portions of Dream Island Road within the 75’ setback

Streetview of Dream Island Road – Middle of Dream Island, facing north



**Streetview of Dream Island Road and Private Driveway – Southend of Dream Island, facing southwest**



Streetview of Dream Island Road – Northside of bridge, facing south



Streetview of Dream Island Road – Southside of bridge, facing north





**Variance Application**  
 Planning and Zoning Department  
 13888 Daggett Bay Road, Crosslake, MN 56442  
 218.692.2689 (Phone) 218.692.2687 (Fax) [www.cityofcrosslake.org](http://www.cityofcrosslake.org)

Receipt Number: 244166

Permit Number: 240073V

Property Owner(s): Trail Properties, Inc.

Mailing Address: 9303 Father Foley Drive, Pine River, MN 56474

Site Address: XXXX Moen Beach Trail, Crosslake, MN 56442

Phone Number: 218-330-8105

E-Mail Address: marie@campfoley.com

Parcel Number(s): 14100729

Legal Description: See Attachment 1

Sec 10 Twp 137 Rge 26  27  28

Lake/River Name: Little Pine Lake

Do you own land adjacent to this parcel(s)? \_\_\_ Yes X No

If yes list Parcel Number(s) \_\_\_\_\_

Authorized Agent: Peter Beltz

Agent Address: 1108 Bridge Street, Charlevoix, MI 49720

Agent Phone Number: 218-330-7932

<u>Variations</u>	
(Check applicable requests)	
<input checked="" type="checkbox"/>	Lake/River Setback <i>48.5 where 75' is needed</i>
<input type="checkbox"/>	Road Right-of-Way Setback
<input type="checkbox"/>	Bluff Setback
<input type="checkbox"/>	Side Yard Setback
<input type="checkbox"/>	Wetland Setback
<input type="checkbox"/>	Septic Tank Setback
<input type="checkbox"/>	Septic Drainfield Setback
<input type="checkbox"/>	Impervious Coverage
<input type="checkbox"/>	Accessory Structure
<input type="checkbox"/>	Building Height
<input type="checkbox"/>	Patio Size
<input type="checkbox"/>	_____
<input type="checkbox"/>	_____

Signature of Property Owner(s) Mami Ichii Date 5/11/2024

Signature of Authorized Agent(s) Pety Date 5/10/2024

- All applications must be accompanied by a signed Certificate of Survey
- Fee \$750 for Residential and Commercial Payable to "City of Crosslake"
- No decisions were made on an applicant's request at the DRT meeting. Submittal of an application after DRT does not constitute approval. Approval or denial of applications is determined by the Planning Commission/Board of Adjustment at a public meeting as per Minnesota Statute 462 and the City of Crosslake Land Use Ordinance.

For Office Use:

Application accepted by P.S Date 5-13-2024 Land Use District SD

Lake Class GD Septic: Compliance na SSTS Design SS Installation none

Attachment 1 – Legal Description

That part of the Northwest Quarter of the Northeast Quarter, Section 10, Township 137 North, Range 27 West, Crow Wing County Minnesota, more particularly described as follows:

Commencing at the southwest corner of Lot 7 Block 1, Moen Beach, according to the plat of record in the office of the County Recorder, Crow Wing County, Minnesota; thence North 07 degrees 12 minutes 54 seconds East 218.32 feet to the South line of said northwest quarter of the northeast quarter, which is the point of beginning of the tract to be described herein; thence North 89 degrees 55 minutes 53 seconds West, along the South line of said northwest quarter of the northeast quarter 436.50 feet, more or less, to the shore of Little Pine Lake; thence northeasterly, easterly, southwesterly and southeasterly along the shore of Little Pine Lake to the intersection with the northerly extension of the West line of said Lot 7 Block 1 Moen Beach, said line bears North 07 degrees 12 minutes 54 seconds East 15 feet, more or less, from the point of beginning; thence South 07 degrees 12 minutes 54 seconds West, along said West line 15 feet, more or less, to the point of beginning; and

Together with Easement for roadway granted pursuant to Easement dated January 27, 1970, filed February 18, 1970 as Doc. No. 240612 according to the records of the Crow Wing County Recorder.





**Peter D. Beltz**  
*Attorney & Counselor at Law*

*Beltz Law Firm, PLLC is Of  
Counsel to the law firm of Bondy  
Law, PLLC*

**Peter D. Beltz is admitted to practice law in the State of Michigan and the State of Minnesota.**

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1108 Bridge Street, Unit A, Charlevoix, MI 49720 | Phone: (218) 330-7932 | Email: peter@beltzpllc.com

May 10, 2024

City of Crosslake Planning Commission/Board of Adjustment  
13888 Daggett Bay Road  
Crosslake, MN 56442

**RE: After-the-Fact Variance Application – XXXX Moen Beach Trail, Crosslake  
Findings of Fact, Supporting/Denying an After-The-Fact Variance**

To the Commission Members,

Please accept this letter on behalf of my client, Trail Properties, Inc. (hereinafter, “TPI”), as the findings of fact supporting TPI’s After-the-Fact Variance application pertaining to TPI’s property located at XXXX Moen Beach Trail in Crosslake, Minnesota (hereinafter, “Property”). TPI is asking for an After-the-Fact Variance in order to (i) keep portions of the driveway that was recently put in by a third-party contractor at the Property and is within the 75’ setback from the ordinary high water level (hereinafter, “OHWL”) and (ii) relocate portions of the driveway. The portions of the driveway TPI is asking to keep and the portions of the driveway TPI is asking to relocate are detailed in the Certificate of Survey that was submitted as part of the After-the-Fact Variance application.

Immediately below is a brief overview of the Property, including a summary of the denial of TPI’s original After-the-Fact Variance application by City of Crosslake Planning Commission/Board of Adjustment (hereinafter, “Commission”) during the Commission meeting on March 22, 2024. This overview is followed by the question/answer format set forth in the City of Crosslake’s Findings of Fact, Supporting/Denying an After-the-Fact Variance application document. Ultimately, this letter, and the answers given in the question/answer format, demonstrate why TPI’s requested After-the-Fact Variance (i) is in harmony with the general purposes and intent of the Ordinance, (ii) is consistent with the City of Crosslake Comprehensive Plan, (iii) is necessary due to the circumstances that are naturally unique to the Property, (iv) is a proposed use that, although is not permitted by the Ordinance, is reasonable, and (v) is not a proposed use that will alter the essential character of the neighborhood.

**Overview of the Property, Summary of March 2024 Commission Meeting**

The Property is located at XXXX Moen Beach Trail (also referred to as TBD Moen Beach Trail or 0 Moen Beach Trail) in Crosslake, Minnesota. The Property parcel number is 14100729. The Property is approximately 2.73 acres and is an undeveloped residential lot situated on Little Pine Lake, which is a General Development Lake. The Property is best described as a peninsula with a high spot on the south end of the peninsula, a low spot in the middle of the peninsula, and a high spot on the north end of the peninsula. The Property is primarily made up of mature forest.

TPI has owned the property for over fifty years, and, on or around February 18<sup>th</sup>, 1970, an easement was recorded which granted TPI access from what is today known as Moen Beach Trail to the south-east corner of the Property. Since the purchase of the Property and recording of the easement, the Property has primarily been untouched, and no development has taken place. On or around September 2023, TPI engaged a realtor to begin the process of selling the Property. Near the beginning of this process, the realtor engaged a surveyor to determine structure setbacks and buildable sites. Sometime later, the realtor recommended an access to the Property be created to show prospective buyers the potential of the Property and to provide prospective buyers with an easier way to access the potential build sites. The realtor engaged a contractor to complete this work.

While the access was being built, the City of Crosslake Zoning Administrator contacted and informed TPI that the access was likely encroaching on the 75' setback from the OHWL for General Development Lakes. TPI immediately began working with the City of Crosslake (hereinafter, "City") to begin the process of obtaining an After-the-Fact Variance for the driveway. TPI submitted an After-the-Fact Variance application on February 12, 2024 (hereinafter, "First Application") asking to keep the entire driveway its existing location. On March 21, 2024, members of the Commission, as well as the Mayor of Crosslake, attended the site walk on the Property, and on March 22, 2024, the public hearing was held on the First Application (hereinafter, "March 2024 Commission Meeting"). Although the Commission acknowledged during the March 2024 Commission Meeting that TPI had demonstrated practical difficulty in complying with the 75' setback from the OHWL due to the issues uniquely inherent with the Property (and were not created by TPI), the Commission ultimately denied the First Application.<sup>1</sup> In denying the First Application, it is my understanding that the Commission primarily took issue with (i) the proximity of portions of the driveway to the OHWL; (ii) the lack of similar structures in the area; (iii) the insufficiency of the First Application; and (iv) TPI's failure to attempt to obtain a variance prior to the driveway being installed.<sup>2</sup> In conjunction with denying the First Application, the Commission motioned to have TPI install a silt fence on the Property.<sup>3</sup> TPI retained a third-party contractor to install the silt fencing as requested.

During the March 2024 Commission Meeting, the Commission further motioned to have TPI "resubmit" an After-the-Fact Variance Application by May 13, 2024 to be heard by the Commission on the June 28, 2024 meeting.<sup>4</sup> Although the Commission unfortunately did not specify what the Commission was desiring to see in a new After-the-Fact Variance Application, because it is my understanding that (i) the Commission did not specify what needed information was lacking with the First Application (and TPI never received any indication from the City or the Commission that any portions of the First Application were lacking needed information); (ii) there are numerous similar structures in the area (see, generally, **Exhibit C**); and (iii) TPI cannot go back in time and request a variance prior to the driveway being installed (which, as noted in more detail later in this letter, had TPI known there was an issue with the lake setback, TPI would have

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<sup>1</sup> **Exhibit A** – City of Crosslake Planning Commission/Board of Adjustment, Meeting Decision and Findings of Fact, March 22, 2024; **Exhibit B** – City of Crosslake Planning Commission Board of Adjustment, Meeting Minutes from March 22, 2024 Meeting

<sup>2</sup> See, generally, **Exhibit A**

<sup>3</sup> **Exhibit B**

<sup>4</sup> *Id.*

requested a variance prior to the driveway being installed), it appears that the Commission is desiring to see portions of the driveway relocated further away from the OHWL in this After-the-Fact Variance Application. As a result, TPI has submitted this After-the-Fact Variance Application which, as discussed at the beginning of this letter, seeks to keep portions of the driveway and relocate portions of the driveway as detailed in the Certificate of Survey. Collectively, the portions of the driveway TPI is asking to keep and the portions of the driveway TPI is asking to relocate are hereinafter referred to as the “Driveway”.

**City of Crosslake – Findings of Fact, Supporting/Denying an After-The-Fact Variance**

1. Is the After-the-Fact Variance request in harmony with the purposes and intent of the Ordinance?

Yes  No   
Why?

The general purpose of a land use ordinance is to promote the public’s health, safety, and welfare. It is likely that the key concerns of the specific ordinance relating to lake setbacks are related to erosion and runoff into the lakes. However, as detailed in the attached Storm Water Plan, which was developed by a Minnesota certified Storm Water Planner and Minnesota licensed engineer, TPI has already taken steps to temporarily address any concerns relating to runoff from the driveway by installing silt fencing and installing straw and wood chips to prevent any erosion of the shoreland banks. Additionally, as detailed in the attached Certificate of Survey and Storm Water Plan, TPI is *voluntarily proposing* to add additional storm water measures and relocate portions of the driveway further away from the OHWL that should, collectively, further eliminate any runoff from entering Little Pine Lake.

2. Is the After-the-Fact Variance consistent with the Comprehensive Plan?

Yes  No   
Why?

The granting of the after-the-fact variance is consistent with the City’s Comprehensive Plan (hereinafter, the “Comprehensive Plan”). The Comprehensive Plan sets forth two Land Use Goals.<sup>5</sup> Goal 2 states that the City should “[e]ncourage sustainable development that respects the environment, including natural topography and suitable soils, and avoids such areas as wetlands, floodplains, erodible steep slopes, and bluffs.”<sup>6</sup> As detailed in TPI’s answer to Question 5 and the attached Certificate of Survey, the Driveway respects the natural topography of the Property. While there are no steep slopes or bluffs as defined by the Ordinance on the Property, there are significant topographic features. The Driveway avoids significant alterations to the natural topography by following the natural contours of the property. Additionally, the Driveway was constructed in a way that had a minimal impact to the mature forest growth present on the Property. The Driveway, thus, is consistent with the Comprehensive Plan because it is a sustainable development that respects the environment.

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<sup>5</sup> City of Crosslake 2018 Comprehensive Plan, page 19.

<sup>6</sup> City of Crosslake 2018 Comprehensive Plan, page 19

The Comprehensive Plan also cites the Crow Wing County Housing Study. Specifically, the Comprehensive Plan notes that creating a range of housing opportunities is needed in Crosslake.<sup>7</sup> The Comprehensive Plan further notes that communities such as Crosslake are likely to attract mid-age and older adults who want to “[t]ake advantage of the significant amenity value of the lakes area and may look for more affordable and/or upscale single-family homes.”<sup>8</sup> Indeed, 55% of respondents in the survey given by the City of Crosslake in updating the Comprehensive Plan in May 2018 opined that Crosslake should encourage development of single-family homes on 1-2 acre parcels.<sup>9</sup> As noted above, the Property is approximately 2.73 acres and is an undeveloped residential lot situated on Little Pine Lake. By approving the location of the Driveway, a future owner could develop up at least one single-family home on one of the two potential building sites as noted on the attached Certificate of Survey.

3. Is the property owner proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance?  
Yes  No   
Why?

The Ordinance requires a setback of 75' from the OHWL on a General Development Lake. As noted above, the Property is situated on Little Pine Lake, which is classified as a General Development Lake. As indicated on the COS, and as more detailed in TPI's answer to Question 5, it would not be possible to have a driveway that accesses the Property without encroaching on this setback. This is because the north end of the access easement is within the 75' set back. Additionally, the uniqueness of the Property—a peninsula—makes it impossible to have a driveway outside of the setback to access either of the two potential building sites. The Driveway is the most reasonable use of the Property given the unique, natural features of the Property.

4. Will the issuance of an After-the-Fact Variance maintain the essential character of the locality?  
Yes  No   
Why?

The Driveway is made of dirt, which is natural looking and the same material as Moen Beach Trail, a private road. The Driveway is currently the only "structure" on the property. Additionally, the Driveway follows the natural topographic feature of the property, has minimal impact on the topographic features of the property, and respects the natural beauty of the Moen Beach Trail neighborhood. The Driveway has and will only require the removal of some mature trees, and only some undergrowth was removed. By only removing minimal mature trees and undergrowth, the Driveway has not and will not cause a great disruption to the natural environment of the Moen Beach Trail area, which is arguably the most important and essential characteristic of the neighborhood.

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<sup>7</sup> City of Crosslake 2018 Comprehensive Plan, page 20.

<sup>8</sup> City of Crosslake 2018 Comprehensive Plan, page 20.

<sup>9</sup> City of Crosslake 2018 Comprehensive Plan

Additionally, as detailed in **Exhibit C**, there appears to be numerous structures that encroach on the 75' lake setback in the immediate neighborhood of Moen Beach Trail and Dream Island. Specifically, there appears to be at least twenty-six (26) structures (homes, driveways) and 825' of Dream Island Road within the 75' lake setback. Of the 825' of Dream Island Road within the 75' lake setback, hundreds of feet of the road appear to be 10' or closer to the OHWM.

5. Is the need for an After-the-Fact Variance due to circumstances unique to the property and not created by the property owner?

Yes  No

Why?

The After-the-Fact Variance is necessary because of the uniqueness of the Property. As detailed in the attached Certificate of Survey, the north end of the easement that connects the Property to Moen Beach Trail adjoins the Property at the southeastern corner of the Property. Where the easement adjoins the Property is within the 75' setback. Therefore, it is not possible to build a driveway to simply access the Property, let alone access the potential build sites, without encroaching on the setback. Additionally, although the Property is approximately 2.73 acres, the property is a very narrow peninsula with a wider point on the north end. The narrowness of the peninsula makes it impossible to place a driveway on the Property without encroaching on the setback. In fact, outside of the two potential build sites, none of the Property is outside of the lake setback. In order to obtain access to the two potential build sites, any access driveway would have to encroach on the setback.

Further, the Driveway, as proposed in the Certificate of Survey, follows the least invasive path and is the most natural path given the natural topography of the Property. Relocating further portions of the driveway would cause significantly more damage to the natural landscape in the sense that mature trees would need to be removed and the topographic feature of the property would need to be altered to accommodate the driveway.

6. Does the need for an After-the-Fact Variance involve more than economic considerations?

Yes  No

Why?

The need for the after-the-fact variance is not an economic issue. Rather, as detailed in TPI's answer to Question 5, the variance is needed because the unique circumstances of the Property make it impossible for a driveway to be installed on the Property without encroaching on the setback.

7. Did the applicant fail to obtain a variance/or comply with the applicable requirements before commencing work? (Whether the applicant acted in good faith should be considered in the analysis of this factor)

Yes  No

Why?

TPI did not obtain a variance for the driveway prior to the work being completed on the Property. However, while TPI understands that the ultimate party responsible for complying with zoning ordinances is the property owner, TPI provides the following explanation to give context to this situation. TPI made the decision to sell the property at issue. TPI retained a realtor to complete and manage this process. Near the beginning of this process, the realtor engaged a surveyor to determine structure setbacks and buildable sites. Sometime later, the realtor recommended an access to the property be installed to show prospective buyers the potential of the property and to provide prospective buyers with an easier way to access the potential build sites. The realtor engaged a contractor to complete this work. TPI believed that the realtor and the contractor were knowledgeable of the applicable zoning ordinances and presumed the work would be completed in accordance with the applicable zoning ordinances and/or the contractor or realtor would inform TPI if there were potential issues with complying with the applicable zoning ordinances. In hindsight, this was an error. Again, this explanation is not being provided as justification for TPI's actions. Rather, this explanation is being provided to give context to what happened in this matter.

Additionally, since being notified by the City that the driveway was likely encroaching on the 75' setback from the OHWL, TPI has continued to act in good faith. As soon as TPI learned that the driveway may be encroaching on the 75' setback, TPI stopped all work on the Property. TPI also immediately began working with the City on the driveway and setback issue. TPI attended a DRT meeting, submitted the First Application, attended the March 2024 Commission Meeting, installed silt fencing as requested by the Commission, and submitted this After-the-Fact Variance application on or before May 13 as requested by the Commission.

8. Did the applicant attempt to comply with the Ordinance by obtaining the proper permits?  
Yes  No   
Why?

The Ordinance generally does not require a permit to install a driveway. However, because the driveway was within the setback, and as noted in TPI's answer to Question 7, TPI understands that a variance should have been obtained prior to commencing work on the driveway.

9. Did the applicant make a substantial investment in or improvement to the property?  
Yes  No   
Why?

TPI ultimately ended up paying the third-party contractor a substantial amount for the work performed in building the existing driveway on the Property. Additionally, with the Driveway, the Property would have a functional way to access the possible building sites because of the Driveway, which is a substantial improvement to the Property.

10. Are there other similar structures in the neighborhood?

Yes  No

Why?

As detailed in **Exhibit C**, there appears to be numerous structures that encroach on the 75' lake setback in the immediate neighborhood of Moen Beach Trail and Dream Island. Specifically, there appears to be at least twenty-six (26) structures (homes, driveways) and 825' of Dream Island Road within the 75' lake setback. Of the 825' of Dream Island Road within the 75' lake setback, hundreds of feet of the road appear to be 10' or closer to the OHWM.

11. Would the minimum benefits to the City appear to be far outweighed by the detriment the applicant would suffer if forced to move or remove the structure?

Yes  No

Why?

The minimum benefits to the City, including the other property owners on Moen Beach Trail as well as all of the property owners situated on Little Pine Lake, far outweigh the detriment TPI would suffer if TPI were forced to further relocate portions of the driveway or remove the driveway in its entirety. As detailed in TPI's answers to the various Questions in this application, the Driveway as set forth in the Certificate of Survey respects the natural environment of the Property. Additionally, TPI has voluntarily proposed adding additional storm water measures to the Property that should further protect Little Pine Lake. If the City were to force TPI to move driveway, numerous mature trees would need to be removed and the natural topographic features of the Property would be impacted. Not only would this likely cause significant harm to the natural environment, but it likely would also negatively impact the natural beauty of the Moen Beach Trail neighborhood. By granting this After-the-Fact Variance application and allowing the Driveway as set forth in the Certificate of Survey, the City benefits because the natural environment is protected. The City is also likely to benefit from an increase in tax revenue in the event there is further development on the Property, such as the construction of a single-family home. Without a driveway on the Property, however, it is unlikely that there would ever be development of the Property.

In conclusion, for the foregoing reasons and because TPI has established practical difficulty in complying with the ordinance in question, TPI asks that you, the Commission Members, grant the After-the-Fact Variance to allow TPI to keep the Driveway as set forth in the Certificate of Survey.

Sincerely,

Beltz Law Firm, PLLC



Peter Beltz



City of Crosslake Planning Commission/Board of Adjustment

After-The-Fact Variance Application

Findings of Fact

Supporting/Denying an After-The-Fact Variance

*An After-the-Fact Variance may be granted by the Planning Commission/Board of Adjustment when it is found that strict enforcement of the Land Use Ordinance will result in a “practical difficulty” according to Minnesota Statute Chapter 462. The Planning Commission/Board of Adjustment should weigh each of the following questions to determine if the applicant has established that there are “practical difficulties” in complying with regulations and standards set forth in the Land Use Ordinance.*

1. Is the After-the-Fact Variance request in harmony with the purposes and intent of the Ordinance?

Yes            No  
Why?

2. Is the After-the-Fact Variance consistent with the Comprehensive Plan?

Yes            No  
Why?

3. Is the property owner proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance?

Yes            No  
Why?



4. Will the issuance of an After-the-Fact Variance maintain the essential character of the locality?

Yes            No

Why?

5. Is the need for an After-the-Fact Variance due to circumstances unique to the property and not created by the property owner?

Yes            No

Why?

6. Does the need for an After-the-Fact Variance involve more than economic considerations?

Yes            No

Why?

7. Did the applicant fail to obtain a variance/or comply with the applicable requirements before commencing work? (Whether the applicant acted in good faith should be considered in the analysis of this factor)

Yes            No

Why?

8. Did the applicant attempt to comply with the Ordinance by obtaining the proper permits?  
Yes            No  
Why?

9. Did the applicant make a substantial investment in or improvement to the property?  
Yes            No  
Why?

10. Are there other similar structures in the neighborhood?  
Yes            No  
Why?

11. Would the minimum benefits to the City appear to be far outweighed by the detriment the applicant would suffer if forced to move or remove the structure?  
Yes            No  
Why?