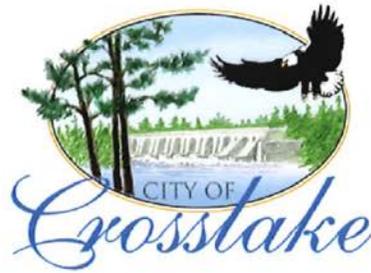


City Hall: 218-692-2688  
Planning & Zoning: 218-692-2689  
Fax: 218-692-2687



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**

**March 22, 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 37.7 feet where 75 feet is required for a driveway

**To allow:**

- 3,407 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: February 12, 2024

Action Deadline: April 11, 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 37.7 feet where 75 feet is required for a driveway

**To allow:**

- 3,407 square feet of driveway

**Current Zoning:** Shoreland District

**Existing Impervious Coverage:**

3%

**Proposed Impervious Coverage:**

3%

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

**Parcel History:**

- No history on this vacant parcel

**Agencies Notified and Responses Received:**

County Highway Dept: N/A

DNR: Comment(s) received

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:**

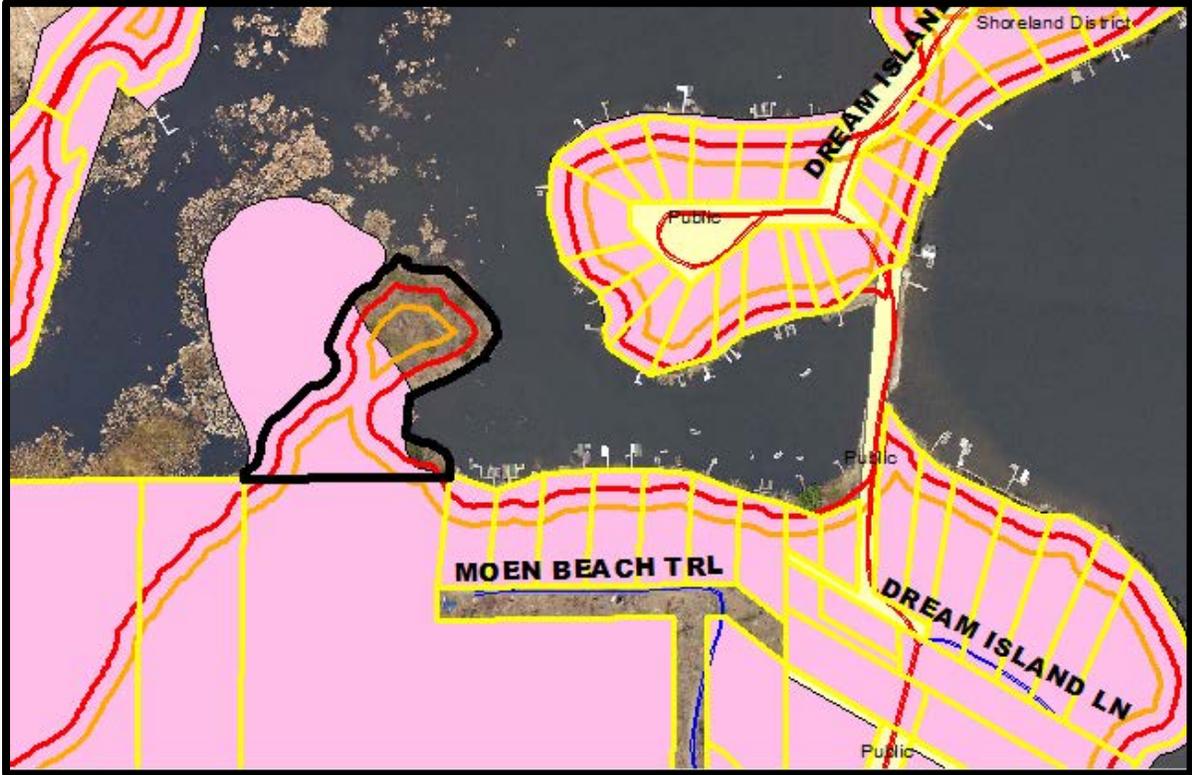
To approve/table/deny the after-the-fact variance for:

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

To allow:

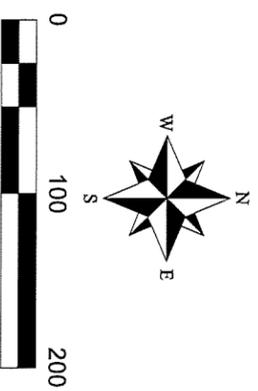
- 3,407 square feet of driveway

As shown on the certificate of survey dated 1-23-2024

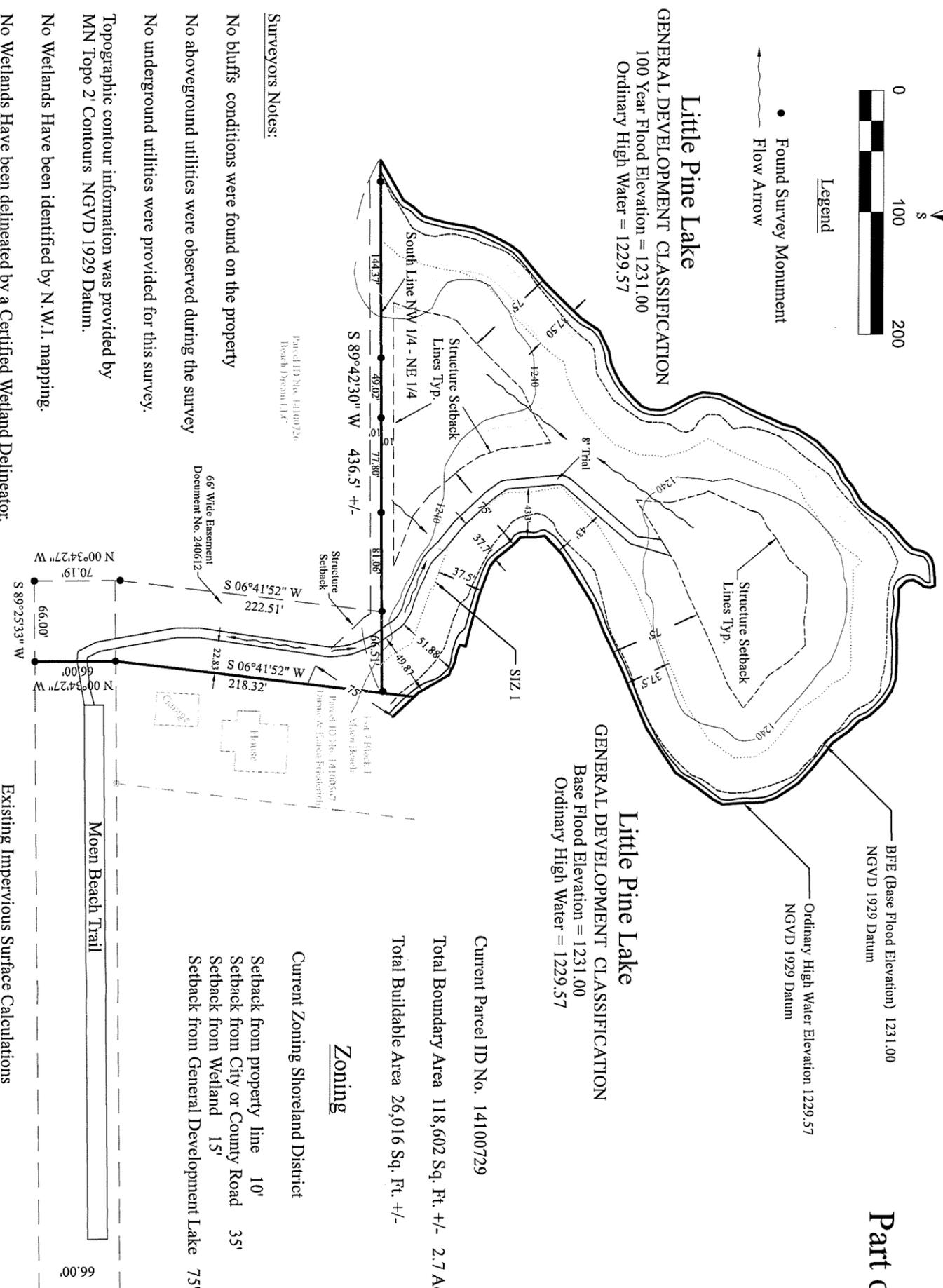


# Certificate of Survey

## 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. +/-

### 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.

Warranty Deed Document No. 2180304

That part of the Northwest Quarter of the Northeast Quarter (NW 1/4 of NE 1/4) of Section Ten (10), Township One Hundred Thirty-seven North (137 N), Range Twenty-seven West (27 W), described as follows:

Beginning at the point where the South line of said NW 1/4 NE-1 intersects the shore of Little Pine Lake, said point being North 89 degrees 55 minutes 53 seconds West 160 feet more or less, from the Southeast corner of said NW 1/4 NE 1/4; thence North 89 degrees 55 minutes 53 seconds West 350 feet more or less, to the shore of Little Pine Lake; thence Northeasterly, Easterly and Southeasterly along the shore of Little Pine Lake to the point of beginning.

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.

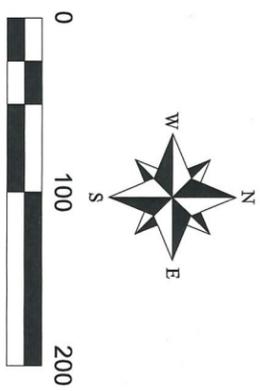
SHEET 1 OF 2

<p>Revised 02/10/2024 Revised Driveway, Storm Berni</p> <p>Revised 02/02/2024 Total Buildable Area</p>		<p>Land Design Solutions 218 803-0854 land@landdesignsolutions.com</p>	<p>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.</p>	<p><b>Certificate of Survey</b></p> <p>Survey Prepared for: Trail Properties 9303 Falter Foley Drive Pine River, MN 56474</p>	
<p>DATE 1/23/2024</p>	<p>SCALE 1" = 100'</p>			<p>PROJECT NO. 23-056A</p>	

# Storm Water Prevention Plan

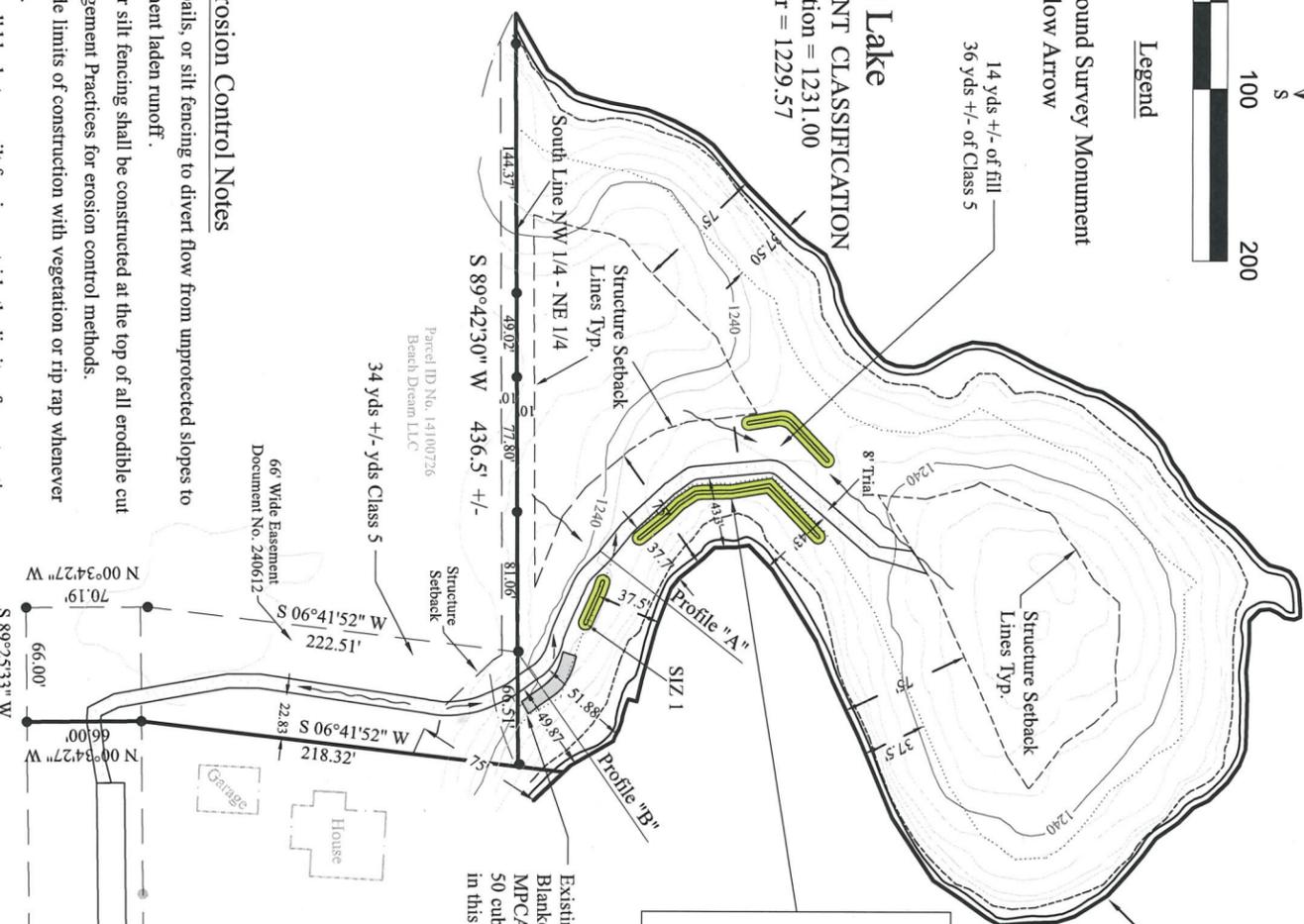
Part of NW 1/4 - NE 1/4  
Part of Section 10 Township 137 Range 27  
Crow Wing County, Minnesota

Current Parcel ID No. 14100729  
Total Boundary Area 118,602 Sq. Ft. +/- 2.7 Acres +/-  
Total Buildable Area 26,016 Sq. Ft. +/-



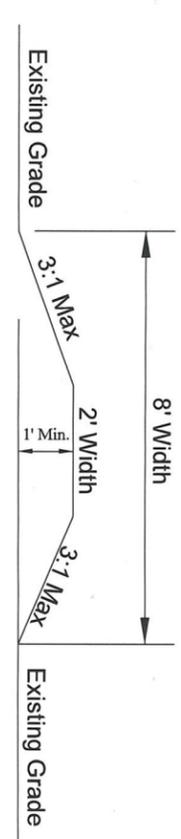
Legend  
● Found Survey Monument  
→ Flow Arrow

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

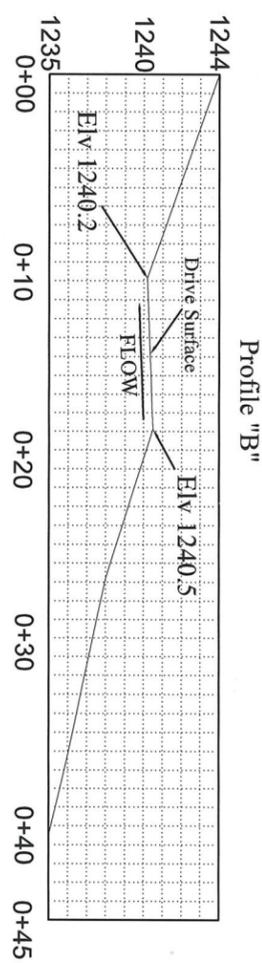
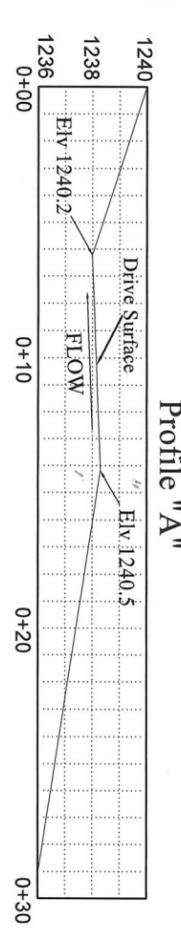


**Note:**  
Berm area to be augmented with native plantings  
Typical plantings will consist of but not limited to the following:  
American Hazel Nut, Canada goldenrod, Great blue lobelia, Sawtooth sunflower, Redosier dogwood, Sandbar willow  
All proposed plantings are consistent with the Minnesota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

## Typical 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 of the berm area.



## 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'

## 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.

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. +/-  
Total Buildable Area

Revised 02/10/2024	Revised Driveway, Storm Berm
Revised 02/02/2024	Total Buildable Area

**Land Design Solutions**  
1821 Lake Trail Circle, Minnesota 56442  
landdesignsolutions.com

I hereby certify that this survey was completed by me, or under my direct supervision and that I am a duly licensed Civil Engineer of the State of Minnesota.

**Storm Water Prevention Plan**  
Survey Prepared for: Trail Properties  
9303 Father Foley Drive  
Pine River, MN 56474  
PROJECT NO. 23-0268

DATE: 1/23/2024 SCALE: 1" = 100'

## 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

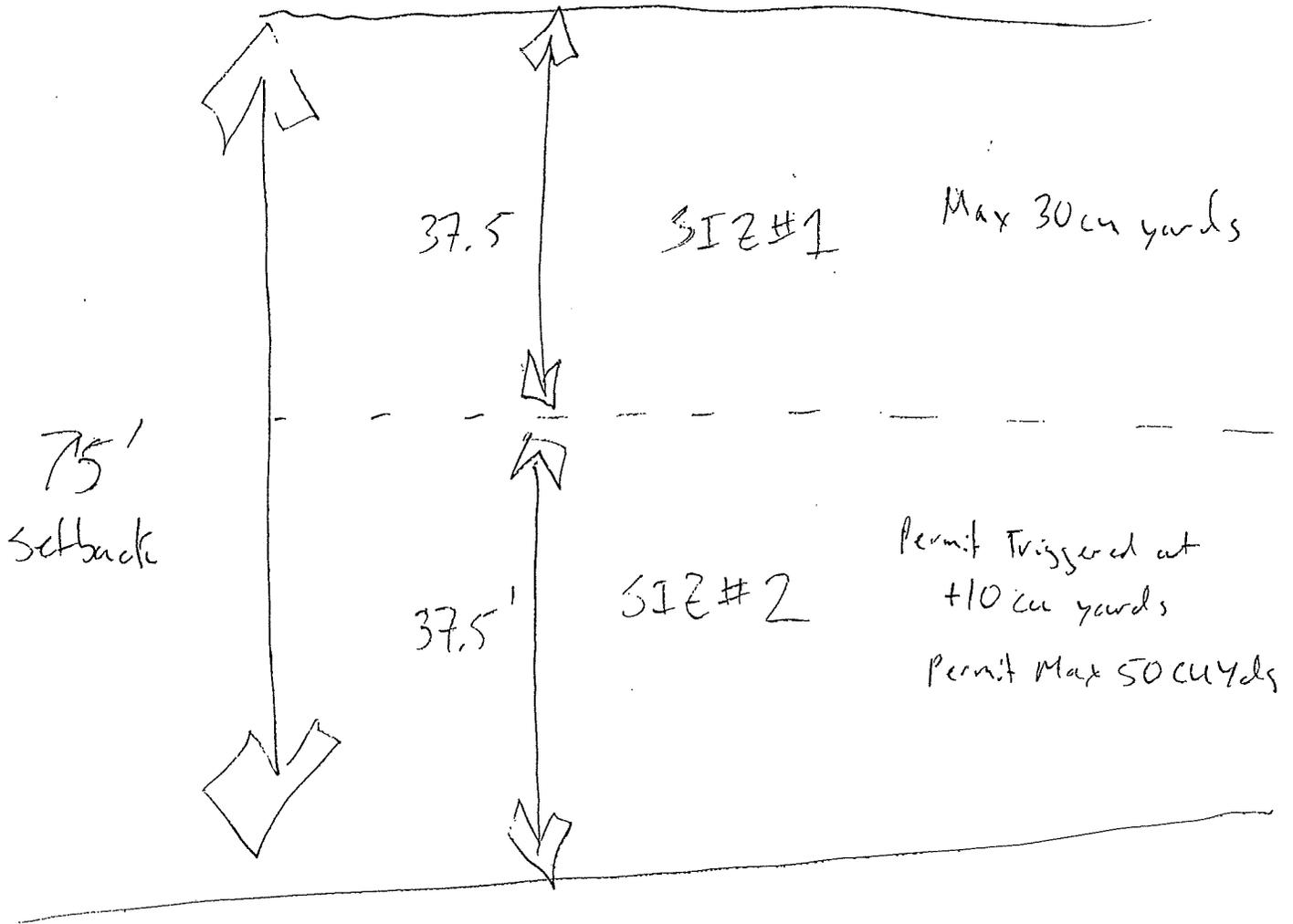
- (1) **Activities in Shore Impact Zone 1.** Dirt moving activities in shore impact zone 1 shall require shoreland alteration permits and meet the following standards:
- a) **Sand Blanket.**
    - i. The maximum dimensions shall not exceed 30 percent of the total lot width by 25 feet landward from the 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

## Cheryl Stuckmayer

---

**From:** Frie, Jacob (DNR) <Jacob.Frie@state.mn.us>  
**Sent:** Friday, December 22, 2023 4:39 PM  
**To:** Cheryl Stuckmayer  
**Cc:** pwehner@crosslake.net  
**Subject:** RE: DRT 1.9.2024

The MN DNR has no comments so long as the driveway – ATF – is located outside of SIZ 1 and not located on steep slopes within the entirety of the SIZ. It does appear that based on the COS provided, this is the case.

### Jacob Frie

Area Hydrologist | Division of Ecological and Water Resources

#### Minnesota Department of Natural Resources

1601 Minnesota Drive

Brainerd, MN, 56401

Phone: 218-203-4367

Email: [Jacob.frie@state.mn.us](mailto:Jacob.frie@state.mn.us)

[mndnr.gov](http://mndnr.gov)



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**From:** Cheryl Stuckmayer <cstuckmayer@cityofcrosslake.org>  
**Sent:** Friday, December 22, 2023 3:51 PM  
**To:** pwehner@crosslake.net; Frie, Jacob (DNR) <Jacob.Frie@state.mn.us>  
**Subject:** DRT 1.9.2024

You don't often get email from [cstuckmayer@cityofcrosslake.org](mailto:cstuckmayer@cityofcrosslake.org). [Learn why this is important](#)

**This message may be from an external email source.**

Do not select links or open attachments unless verified. Report all suspicious emails to Minnesota IT Services Security Operations Center.

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Good afternoon,

Please review the attachment(s). As always, any comments you would like to contribute to our meeting, please put in writing or present in person. The times of each application is indicated at the top of the application.

Any commissioner that would like to attend contact me. The date and time is listed at the top of each application.

Thank you for any reply/comment. Have a wonderful day!

Respectfully,



After - The - Fact

Variance Application

Planning and Zoning Department
13888 Daggett Bay Road, Crosslake, MN 56442
218.692.2689 (Phone) 218.692.2687 (Fax) www.cityofcrosslake.org

Receipt Number: 244089 Feb 12 2024 Permit Number: 240009V

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 [x] 28 [ ]

Lake/River Name: Little Pine Lake

Do you own land adjacent to this parcel(s)? Yes [ ] No [x]

If yes list Parcel Number(s)

Authorized Agent: Peter Beltz

Agent Address: 1108 Bridge Street, Charlevoix, MI 49720

Agent Phone Number: 218-330-7932

- Variations (Check applicable requests)
Lake/River Setback [x]
Road Right-of-Way Setback [ ]
Bluff Setback [ ]
Side Yard Setback [ ]
Wetland Setback [ ]
Septic Tank Setback [ ]
Septic Drainfield Setback [ ]
Impervious Coverage [ ]
Accessory Structure [ ]
Building Height [ ]
Patio Size [ ]

Signature of Property Owner(s) [Signature] Date 2/12/24

Signature of Authorized Agent(s) [Signature] Date 2/12/2024

- All applications must be accompanied by a signed Certificate of Survey
Fee \$750 for Residential and Commercial Payable to "City of Crosslake" ATF 5X \$3750
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 [Signature] Date Feb 12 2023 Land Use District SD

Lake Class GD Septic: Compliance WWA SSTS Design WWA Installation N/A
Wetland WWA



**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

February 12, 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, the “Property”). TPI is asking for an After-the-Fact Variance in order to keep 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”).

Immediately below is a brief overview of the Property. 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 the 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**

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 this process of obtaining an After-the-Fact Variance.

**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, TPI has already taken steps to address any concerns relating to runoff from the driveway by sloping the driveway in a way that directs runoff away from Little Pine Lake and installing straw and wood chips to prevent any erosion of the shoreland banks. Additionally, as detailed in the attached Storm Water Plan, TPI is voluntarily proposing to add additional storm water measures that should 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>1</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>2</sup> As detailed in TPI's answer to Question 5 and the attached Certificate of Survey, the driveway, as currently laid out on the property, 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 was constructed in a way that avoided altering 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 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

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<sup>1</sup> City of Crosslake 2018 Comprehensive Plan, page 19.  
<sup>2</sup> City of Crosslake 2018 Comprehensive Plan, page 19

Crosslake.<sup>3</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>4</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>5</sup> As noted above, the Property is approximately 2.73 acres and is an undeveloped residential lot situated on Little Pine Lake. By keeping the driveway in its current location, 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, in its current location, 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 did not require the removal of mature trees, and only some undergrowth was removed. Placing the driveway elsewhere on the Property would require the removal of mature trees and would cause a greater disruption to the natural environment of the Moen Beach Trail area, which is arguably the most important and essential characteristic of the neighborhood.

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

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<sup>3</sup> City of Crosslake 2018 Comprehensive Plan, page 20.

<sup>4</sup> City of Crosslake 2018 Comprehensive Plan, page 20.

<sup>5</sup> City of Crosslake 2018 Comprehensive Plan

Yes  No   
Why?

The After-the-Fact Variance is necessary to keep the driveway in its current location 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 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, in its current location, follows the least invasive path and is the most natural path given the natural topography of the Property. Moving 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 do not allow the placing of a driveway 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.

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, 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 driveway on the Property. Additionally, the Property now has 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?

There are similar structures that encroach on the 75' lake setback in the neighborhood. Dream Island Road to the east and north of the property has numerous points that encroach within the 75' lake setback. Additionally, there are several private driveways and structures that appear to encroach within the 75' lake setback on Dream Island. A couple of existing homes and associated structures on Moen Beach Trail also appear to be within the 75' lake setback.

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 move or remove the driveway. As detailed in TPI's answers to the various Questions in this application, the driveway in its current location, respects the natural environment of the Property. Additionally, TPI has voluntarily proposed adding additional storm water measures to the driveway 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 keeping the driveway in its present location, 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, TPI asks that you, the Commission Members, grant the After-the-Fact Variance to allow TPI to keep the driveway as currently installed.

Sincerely,

Beltz Law Firm, PLLC

A handwritten signature in blue ink, appearing to read "Beltz", is written over the typed name.

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?