

Memorandum

TO: City Council
FROM: Izaak Peterson , Senior Planner
DATE: June 15, 2026
SUBJECT: 5423 Carlson Road - conditional use and variance appeals - Charles Cudd Co.
ITEM NUMBER: 10.a
SECTION: GENERAL BUSINESS

REQUESTED MOTION

Motion #1 - combined accessory building size variance appeal:

To uphold the planning commission's decision and deny the variance request to increase the allowed combined accessory building square footage from 1,500 square feet to 1,984 square feet lot located at 5423 Carlson Road. This action is based on the finding that unique circumstances are not present necessitating the variance request, therefore a practical difficulty is not present.

Alternate motion #1 of approval

To adopt a resolution approving the variance to increase the allowed combined accessory building square footage from 1,500 square feet to 1,984 square feet lot located at 5423 Carlson Road, subject to the following conditions:

1. The project must be completed in accordance with the submitted as part of the variance application. Any significant changes to these plans, as determined by the community development department, will require review and approval by the planning commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.

Approval is based on the following findings:

(The city council must determine practical difficulty and state the findings used to make the determination)

Motion #2 - detached garage conditional use permit:

To deny a conditional use permit request to retain a 528 square foot detached accessory building ("existing garage") and construct a two car or larger attached garage. This action is based on the finding that the proposed area of the existing garage, and proposed 999 square foot attached garage exceed the maximum permitted combined accessory building area of 1,500 square feet for properties between 1 and 2 acres in size, specified within development code table 107-67.

Alternate motion #2 of approval

To adopt a resolution to approve the conditional use permit request to retain a 528 square foot detached accessory building ("existing garage") and construct a two car or larger attached garage:

1. The project must be completed in accordance with the submitted as part of the conditional use permit application. Any significant changes to these plans, as determined by the community development department, will require review and approval by the planning commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is subject to a five-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.

Approval is based on the following findings:

(The city council must state the findings used to make the determination)

Motion #3:

To adopt resolution No. 26-29, a conditional use permit for the proposed retention of an existing 457 square foot detached accessory building ("existing boathouse"), with the proposed establishment of a 999 square foot attached garage on the property located at 5423 Carlson Road. These approvals are subject to the following conditions:

Water-oriented accessory structure conditional use permit

1. This project must be completed in accordance with the accessory building plans submitted as part of the conditional use permit application. Any significant change to these plans, as determined by the community development department, will require review and approval by the city council.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the proposed house.
3. The 528 square foot detached garage, 167 square foot shed, and 70 square foot shed present on the property shall be removed from the property prior to any building permit issuance for the construction of an attached accessory building on the property.
4. The accessory building shall be used for the storage of personal property and other garage related purposes.
5. The accessory building shall not be used for livable or habitable space.
6. The accessory building shall not be enlarged beyond it's current size of 457 square feet.
7. Further expansion of the existing water-oriented accessory structure is prohibited.

These actions are based on the following findings of fact:

1. The applicant proposes to use the property in a reasonable manner that is allowed in the shoreland overlay district and R1, detached residential zoning district.
2. The proposed structure is a nonconformity constructed prior to the city's 1993 adoption of the shoreland code and no further modification or expansion is requested through the application.
3. The character of the neighborhood will be not be altered by the continuation of the accessory structure.

Motion #4:

To uphold the planning commissions decision and deny the requested decrease to the minimum the ordinary high waterline setback requirement from 79.05 feet to 67.2 feet and increase the required front yard setback to 166.5 feet for a new home construction at 5423 Carlson Road, because a practical difficulty is not present.

Alternate motion #4 of setback approval

To adopt resolution No. 26-28 approving a decrease to the minimum the ordinary high waterline setback requirement from 79.05 feet to 67.2 feet and increase the required front yard setback to 166.5 feet for a new home construction at 5423 Carlson Road. This approval is subject to the following conditions:

Setback variances

1. The project must be completed in accordance with the plans submitted with the variance application, and conditions set forth through this approval. Any significant changes to these plans, as determined by the community development department, will require review and approval by the planning commission.
2. The project is subject to the permitting requirements of the Rice Creek Watershed District. The applicant shall fulfill all permitting requirements of the Watershed District as required.
3. The proposed house shall meet a minimum setback of 67.2' feet from the ordinary high water line of Turtle Lake.
4. The proposed house shall meet a maximum setback of 166.5' feet from the front property line.
5. A tree removal and replacement plan approved by the natural resources coordinator shall be submitted prior to issuance of a building permit.
6. A shoreland mitigation affidavit is required to be signed before the building permit is issued.
7. The approvals will expire after one year if a building permit has not been issued and work has not begun on the project.
8. This variance approval is subject to a five-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.

These actions are based on the following findings of fact:

1. Practical difficulty is present as stated in resolution No. 26- 28.
2. The proposed setback reduction is a reasonable use of the property in a reasonable manner that is allowed in the R1, detached residential district.
3. The character of the neighborhood will not be altered by the reduced setback, and is consistent with average of setbacks along Carlson Road and Turtle Lake.

INTRODUCTION

Charles Cudd Homes, on behalf of the property owner, Steven Bruggeman, have submitted conditional use and variance applications regarding the construction of a new home at the property located at 5423 Carlson Road. The applicants intend to demolish the existing home located on the property and construct a new 5,170 square foot house, which includes a 999 square foot attached garage. The existing property contains four (4) detached accessory buildings, two (2) of which are greater than 440 square feet. The applicant seeks to retain both detached accessory buildings greater than 440 square feet in size, a boathouse and detached garage, in addition to the construction of the proposed attached garage.

Based on the proposed plans, consideration of the following variance and conditional use permit applications is necessary:

1. A variance to Sec. 115-149(a)(1), to permit a 67.2 ft setback to the Turtle Lake ordinary high water line; less than the 89.05 ft average of the adjacent dwellings (+/-10 ft).
2. A variance to Sec. 107-65(d)(1)(g)(1), to permit a 166.5 ft front yard property line setback, greater than the average of the abutting dwellings (+/-10 ft).
3. A variance to Table 107-67, to allow for a combined accessory building foundation area of 1,984 sf, greater than the 1,500 sf permitted.
4. A conditional use permit to retain a detached accessory building (garage) greater than 440 sf, and construct an attached accessory building (garage).
5. A conditional use permit to retain a detached accessory building (water-oriented accessory structure/boathouse) greater than 440 sf, and construct an attached accessory building (garage).

The planning commission reviewed the proposed requests at their April 28, 2026 and May 26, 2026 meetings. At the April 28 meeting, the planning commission recommended denial of the submitted variance request for a combined accessory building foundation area of 1,984 sf. Further, the commission recommended approval of a request to retain the existing boat house, and denial of a conditional use permit to retain a detached garage greater than 440 sf. The commission tabled initial consideration of the submitted setback requests, requesting further justification as to why the house's location was necessitated. Ultimately at their meeting on May 26, the commission voted to deny the submitted setback requests.

The applicant subsequently appealed the planning commissions variance decisions within five business days of their action, requesting for city council deliberation.

DISCUSSION

Site characteristics

The subject property is a standard riparian lot in the R1, detached residential district. The lot is 49,248 square feet, or 1.17 acres, with an average width of 152 feet and a lot depth of 310 feet. The lot's elevation slopes lakeward from a 910 foot elevation at the front lot line down to 892 feet at the ordinary high water line (OHW).

The existing home does not contain an attached garage, is 1,824 square feet in size and is located 218.6 feet from the front property line, and 52.3 feet from the OHW of Turtle Lake. The near point of the existing house to Turtle Lake is an attached deck, which received an OHW setback variance approval in 2020.

The site currently contains four detached accessory buildings. These buildings are comprised of a 528 square foot detached garage, a 70 square foot shed, a 167 square foot shed, and a 457 square foot water-oriented accessory structure ("boathouse"). The boathouse contains an attached 653 square foot deck, together, these facilities constitute a water-oriented accessory structure. The water-oriented accessory structure was constructed in 1991, prior to the city's adoption in 1993 of specific water-oriented accessory structure standards found within the shoreland ordinance.

Project description

The applicants propose to demolish the existing house on the site, and construct a new 5,170

square foot house, which includes a 999 square foot attached garage. The proposed house is larger than the existing home, but located in the approximate location of the current home. The location of the new house would have a proposed lakeside setback of 67.2 feet. The applicants propose the removal of the existing sheds present on the property, and the retention of both the boat house and detached garage. The applications propose a combined accessory building square footage of 1,984 square feet. The applicants note that additional mass grading would be required in order to achieve code compliance, along with the loss of four to five trees. The applicant has indicated that the proposed house location is five feet further from the lake than the current deck.

With regard to the accessory building combined size appeal, the applicant notes that they intend to maintain the existing characteristics of the home site, and that the additional storage is required for boats, trailers, docks etc. Further, the applicant states that the property is 50% bigger than surrounding properties.

Applicant statement

The applicants state that the decrease in the OHW setback is necessary because of the increased setback averaging resulting from 5433 Carlson Road, and the proposed setback is consistent with the average of setbacks of riparian properties in the immediate area. The applicants indicate that the proposed accessory building square footage is in keeping with the character of the neighborhood, and the retention of the structures is sustainable due to the reduced waste of disposing of the buildings.

Development code requirements

Variance request

The development code requires residential construction to comply with certain design standards and setbacks. Those standards and the requested variances are summarized in the table below.

Code standard	Allowed	Proposed
Impervious surface coverage	12,312 square feet (25% of lot area)	11,932 square feet (24.2% of lot area)
Building height	35 feet (street side)	30.5 feet
Front setback	153.15 feet (+/- 10 feet)	166.5 feet**
OHW setback	89.05 feet (+/- 10 feet)	67.2 feet**
Side setback (dwelling)	10 feet	15 feet
Side setback (attached garage)	5 feet	18.2 feet
Accessory Building Total Area	1,500 square feet	1,984 square feet***

** Variance Required

Development code sec [115-149\(a\)\(1\)](#) requires a minimum lakeside setback for new construction homes equal to the average OHW setback of abutting dwellings plus or minus 10 feet.

Development code section [107-65\(d\)\(1\)\(g\)\(1\)](#) prescribes that when new construction is proposed where existing lots immediately abutting the site exceed the maximum required front yard setback of the zoning district (40-feet) by more than 15 feet, the front yard setback for a building to be constructed be equal to the front yard setback for the remaining adjacent

dwelling plus or minus 10 feet. The proposal requests to increase this setback from 163.15 feet, to 166.5 feet.

[Table 107-67](#) outlines the permitted combined attached and detached accessory building foundation areas within the R1 zoning district. For properties greater than one acre and less than two acres, the maximum permitted combined accessory building area is 1,500 square feet or 100% of the size of the dwelling foundation area, whichever is more restrictive.

Variance criteria

When considering a variance request, the commission must determine whether the ordinance causes the property owner practical difficulty and find that granting the variance is in keeping with the spirit and intent of the ordinance. Practical difficulty is defined as:

1. Reasonable manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview development regulations.
2. Unique circumstance. The plight of the property owner is due to circumstances unique to the property not created by the property owner.
3. Character of the neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.

***Economic considerations alone do not constitute a practical difficulty.*

Conditional use permit

[Table 107-67](#) of the development code requires accessory buildings over 440 square feet to receive an approved conditional use permit, if the property contains with two-car or larger attached garage. This code section also limits the total square feet of accessory building space to 1,500 square feet, or 100% of the dwelling unit foundation area (whichever is more restrictive), for lots that are one to two acres in size. The applicants are proposing to construct a 999 square foot attached garage and would like to retain the existing 528 square foot detached garage and 457 square foot existing water oriented accessory structure "boathouse". The combined size of the the proposed accessory buildings is 1,984 square feet, which is not permissible without variance approval. In order to permit the colocation of the proposed attached garage on the property, variance approval for the combined size and conditional use permit is required for both the boathouse and detached garage present on the property.

The intent of the conditional use permit is to asses the suitability of the proposed use in the zoning district and insure harmony with the comprehensive plan. A conditional use permit may be granted provided the proposed use is listed as a conditional use in the zoning district, the standards of the development code will be satisfied and the following criteria are met:

1. The use is in harmony with the general purposes and intent of the development ordinance.
2. The use is in harmony with the policies of the comprehensive plan.
3. Certain conditions as detailed in the development ordinance exist.
4. The structure and/or land use conform to the land use chapter of the comprehensive plan and are compatible with the existing neighborhood.

The exterior design of the structure must be compatible with the dwelling and be similar in appearance from an aesthetic, building material and architectural standpoint. The proposed design, scale, height and other aspects related to the accessory structure are evaluated to determine the impact on the surrounding area. The intent of these regulations and the city's comprehensive plan's policies is to ensure that the residential character of the property and

neighborhood is maintained and that dwelling unit remains the primary feature and use of the property.

Staff review

Front yard & OHW setback variance appeal

After reviewing the applicants' proposal, staff agrees with the applicant that a practical difficulty present with respect to the requested front and OHW setback variance requests:

1. *Reasonable manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview development regulations.* The applicant is proposing to use the property in a reasonable manner as single family residential use, which is a permitted use.
2. *Unique circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.* There are unique circumstances that affect the placement of a home on this property. The property is subject to setback averages both on the lakeside and street side. The immediately abutting house to the north, 5433 Carlson Road was constructed in 1991 and is located 107.3 from Turtle Lake and 131.4 feet from Carlson Road, which is inconsistent with the average setbacks of neighboring riparian properties along Carlson Road. Staff believe the average setback is skewed by the north neighboring property, which is inconsistent with the spirit of and intent of the ordinance requirement to provide uniform setbacks, and otherwise constitutes a unique circumstance.
3. *Character of neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.* The character of the neighborhood will not be altered. The proposed houses location is consistent with the historic setback of a home on the property, and in keeping with the average of setbacks present in the neighborhood.

Accessory building size variance appeal

With regard to the applicants request to exceed the maximum accessory building square footage of 1,500 square feet, staff do not believe a practical difficulty is present, as there are no unique circumstances present:

1. *Reasonable manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview development regulations.* The applicant is proposing to use the property in a reasonable manner. Attached and detached accessory buildings for personal use are permitted uses within the R1 zoning district.
2. *Unique circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.* The proposed code deviation is a result of the proposed construction of an attached garage that is 999 square feet in size. The applicant would otherwise be able to retain both the existing boathouse and detached garage if the size of the proposed garage was reduced to less than 518 square foot. For that reason, staff believe that the request is not a result of unique circumstances, but rather personal preferences.
3. *Character of neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.* The presence of accessory building space in excess of 1,500 square feet is not common in the immediate area. Staff acknowledges that the proposed building sizes may not otherwise adversely impact the character of the neighborhood, however, the proposed deviation is not in keeping with the size of garages present in the neighborhood.

Conditional use permits

As noted above, the applicants request to permit the retention of both the existing 457 square foot boathouse and 528 square foot detached garage on the property, in addition to a 999 square foot attached garage is not permissible by code and a practical difficulty necessitating code deviation is not present.

Continuation of the existing detached garage only with the proposed attached garage would also not be permissible as the combined area (1,525 sf) exceeds the maximum combined size permitted by code. For that reason, staff believes approval of a conditional use permit requested to retain the attached garage would not be compliant with the conditions set forth by the development code. Staff recommends denial of the requested conditional use permit to retain the existing detached garage.

Retention of the existing boat house along with the proposed attached garage would be permitted, as the combined area (1,456 sf), is permitted by code. The boathouse exists as a nonconforming water oriented accessory structure due to its size in excess of 288 square feet. However, the building was lawfully erected prior to the shoreland codes adoption in 1993, and otherwise has been maintained in compliance with ordinance guidelines regarding nonconforming structures. As the retention of the boathouse and addition of the attached garage would be permitted by the development code, staff would recommend approval of a conditional use permit to allow for the continuation of the boathouse with the establishment of the proposed attached garage.

SHORELAND MITIGATION

In accordance with the development code, shoreland mitigation is required of property owners who are seeking certain land use approvals through the city. A condition of approval to fulfill this obligation if the application(s) are approved has been included within the recommended conditions of approval. Staff believe the use of neutral colors and natural materials for the building construction, and removal of detached accessory buildings on the property, will appropriately fulfill the shoreland mitigation requirement.

PUBLIC COMMENT

Property owners within 350 feet were notified of the applicants' appeal and conditional use permit requests. Additionally, notice regarding the proposed conditional use was posted within the April 7 publication of the Shoreview Press. Public comments submitted by the property owners of 5415 Carlson Road prior to the April 28 and May 26 meeting in opposition of the request, are attached to this report.

Planning commission

The planning commission considered the requested applications at their April 28, 2026 meeting. At the time of that meeting the commission deliberated on the submitted land use requests. The commission denied the submitted accessory building variance request with a 6-0 vote, and determined that a practical difficulty was not present. The commission also moved to recommend with a 6-0 vote denial of the submitted conditional use permit to retain the existing detached garage with the addition of the attached garage, as a practical difficulty was not present for the submitted combined area size variance request. Upon discussion of the submitted setback variance requests, the commission tabled consideration of the applications with direction to staff and the applicant to evaluate whether the proposed house location was correct or incorrect, and extend the review period to a maximum length of 120 days.

At the May 29 planning commission meeting, the commission considered additional material regarding the impact of tree removal and grading as elements of unique circumstance in addition to the non conforming setback of the property to the north. Staff maintained recommendation that a practical difficulty is present. The commission moved to approve the variances per staffs recommendation, which failed with 2-5 vote. As a result, the setback variances were ultimately denied.

RECOMMENDATION

Staff has reviewed the proposed project applications for compliance with the development code and comprehensive plan. Staff recommends council deny the variance appeal request to Table 107-67 as a practical difficulty is not present, and deny of the conditional use permit submitted to retain the existing 528 sf detached garage. To uphold the planning commissions action and staffs recommended action on Motions #1 and Motion #2 as outlined in the requested motions section of this report are recommended.

While staff respects the commissions action regarding the setback variance denial, staff maintains the recommendation that the city council adopt resolution no. 26-28 approving a decrease to the minimum the OHW setback requirement from 79.05 feet to 67.2 feet and increase the required front yard setback to 166.5 feet for a new home and adopt resolution no. 26-29, approving a conditional use permit for the proposed retention of an existing 457 square foot detached accessory building ("existing boathouse"), with the establishment of a 999 square foot attached garage on the property located at 5423 Carlson Road, subject to the following conditions and findings of fact:

Water-oriented accessory structure conditional use permit (motion #3)

1. This project must be completed in accordance with the accessory building plans submitted as part of the conditional use permit application, and conditions set forth in resolution no. 26-28. Any significant change to these plans, as determined by the community development department, will require review and approval by the planning commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the proposed house.
3. The existing 528 square foot detached garage, 167 square foot shed, and 70 square foot shed present on the property shall be removed from the property prior to any building permit issuance for the construction of an attached accessory building on the property.
4. The accessory building shall be used for the storage of personal property and other garage related purposes.
5. The accessory building shall not be used for livable or habitable space.
6. The accessory building shall not be enlarged beyond it's current size of 457 square feet.
7. Further expansion of the existing water-oriented accessory structure is prohibited.

These actions are based on the following findings of fact:

1. The applicant proposes to use the property in a reasonable manner that is allowed in the shoreland overlay district and R1, detached residential zoning district.
2. The proposed structure is a nonconformity and no further modification or expansion is requested through the application.
3. The character of the neighborhood will be not be altered by the continuation of the accessory structure.

Setback variances (alternate motion #4)

1. The project must be completed in accordance with the plans submitted with the variance application, and conditions set forth through this approval. Any significant changes to these plans, as determined by the community development department, will require review and approval by the planning commission.
2. The project is subject to the permitting requirements of the Rice Creek Watershed District. The applicant shall fulfill all permitting requirements of the Watershed District as required.
3. The proposed house shall meet a minimum setback of 67.2' feet from the OHW line.
4. The proposed house shall meet a maximum setback of 166.5' feet from the front property line.
5. A tree removal and replacement plan approved by the natural resources coordinator shall be submitted prior to issuance of a building permit.
6. A shoreland mitigation affidavit is required to be signed before the building permit is issued.
7. The approvals will expire after one year if a building permit has not been issued and work has not begun on the project.
8. This variance approval is subject to a five day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.

These actions are based on the following findings of fact:

1. Practical difficulty is present as stated in resolution 26-28.
2. The proposed setback reduction is a reasonable use of the property in a reasonable manner that is allowed in the R1, detached residential district.
3. The character of the neighborhood will not be altered by the reduced setback, and is consistent with average of setbacks along Carlson Road and Turtle Lake.

Should the council choose to uphold the planning commission action regarding the submitted setback variance appeals staff recommends the council use Motion #4 as outlined within the suggested actions section of this report.

ATTACHMENTS

[Location Map](#)

[Applicant Narrative & Exhibits](#)

[Proposed Survey](#)

[Proposed Building Elevations](#)

[Nelson Public Comment 05.26.26](#)

[Watershed District Comment](#)

[Nelson Public Comment 04.27.2026](#)

[Resolution No. 26-28](#)

[Resolution No. 26-29](#)