

Memorandum

TO: Planning Commission
FROM: Izaak Peterson , Senior Planner
DATE: May 26, 2026
SUBJECT: 5423 Carlson Road - Variance Requests- Charles Cudd Co.
ITEM NUMBER: 6.A
SECTION: OLD BUSINESS

REQUESTED MOTION

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 on the property located at 5423 Carlson Road, 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, the applicant requested consideration of the following variance and conditional use permit applications:

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 heard the above mentioned requests on [April 28, 2026](#). At the time of the meeting, the commission took the following actions:

1. To deny the submitted 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.
2. To recommend the city council deny the conditional use permit to retain a detached accessory building (garage) greater than 440 sf, and construct an attached accessory building (garage).
3. To recommend the city council approve a conditional use permit approve retain a detached accessory building (water-oriented accessory structure/boathouse) greater than 440 sf, and construct an attached accessory building (garage).

Additionally, upon discussion of the requested front and lakeside setback variances, the commission tabled action on the requested variances, and directed the applicant further discusses with city staff the proposed location of the home, and provide additional justification and reason as to why the proposed location is correct or incorrect. To accommodate the tabling, the planning commission directed staff to extend the required application review period to 120 days (July 22, 2026).

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 215.6 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 current houses southern sideyard setback is nonconforming, and located 3.5' from the southern property line, where as 10 feet is required.

The site currently contains four (4) 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.

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 applicant has noted that the proposed house location is intended to minimize grading on the property by utilizing the existing houses location. The applicant has provided an alternate setback compliant layout within their narrative, and has indicated that strict compliance with the setback requirement will impact an additional 4-5 overstory tree's present on the site; and result in mass grading to achieve code compliance. The applicant notes that strict compliance would require the construction of additional retaining walls along the driveway, which compromises drivability and site aesthetics.

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- Commission Action required.

*** Variance Required- Commission Action occurred on April 26, 2026.

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 ten 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 1 acre and less than 2 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.*

Staff Review

Front Yard & OHW Setback Variances

After further review of the applicants' proposal, and alternate setback complaint layouts, staff maintains 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 and prior to lakeside setback averaging being required by the Shoreland Code. 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. The property owner does have the physical ability to construct the same building in a manner compliant with setbacks, however, moving the building pad westward will result in the removal of additional overstory trees and site grading. Staff believes these factors are unique circumstances, not created by the property owners actions.

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. The proposed house is otherwise compliant with building massing and height restrictions as specified within city code and otherwise permitted by right. As a result, staff does not believe the proposed visual impact of the building constitutes an adverse impact to the character of the neighborhood.

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' requests at prior to the April 26th Planning Commission meeting. Public comment in opposition to the setback variance request submitted by the property owners of 5415 Carlson Road, at the time of the Planning Commissions initial review of the application is attached to this report. In addition, this staff report was distributed to interested neighboring properties upon publication.

RECOMMENDATION

Staff has worked with the applicant to evaluate an alternate code compliant layout, and maintains that the requested setback variance is a result of a practical difficulty, in keeping with the required variance review criteria. Staff recommends the commission 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 at the property located at 5423 Carlson Road, subject to the following conditions and findings of fact:

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2. The project is subject to the permitting requirements of the Rice Creek Watershed

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ATTACHMENTS

[Location Map](#)

[Applicant Narrative and Exhibit Material](#)

[Applicant Lakeside Setback Exhibit](#)

[Proposed Survey](#)

[Proposed Building Elevations](#)

[Watershed District Comment](#)

[Nelson- Public Comment](#)

[Resolution No. 26-28](#)