

HUBBARD COUNTY

Planning Commission/Board of Adjustment Meeting Minutes

6:00 p.m. on Monday, July 24, 2017

Chairman Ken Grob opened the meeting with the following members present: Tom Krueger, Tim Johnson, Ted VanKempen, Mark Petersen and Cal Johannsen, ex-officio Planning Commission member. Also present was Environmental Services Officer Eric Buitenwerf.

Grob started the meeting by reading the procedure by which the meeting of the Planning Commission/Board of Adjustment will be conducted to the audience.

Planning Commission:

Approval of Minutes: June 26, 2017 meeting.

Johnson made a motion to approve the minutes as presented. VanKempen seconded the motion that carried unanimously 5 – 0.

Old Business: None.

New Business:

Minor Subdivision Application by Dirk Fisher: Part of the SW ¼ of the NW ¼ and the South Half of the NW ¼, Section 22, Township 145, Range 33, Helga Township, Parcel 11.22.00300. Applicant is requesting to subdivide a 63.43 acre property into eight tracts.

No applicant present.

Grob noted the application seems to meet all of the requirements, all parcels are the appropriate size, all parcels have two septic sites, and Helga Township approval has been received. There does not seem to be any outstanding issues.

Buitenwerf replied correct.

Grob asked for public comment.

No written correspondence was submitted.

No public comment was given.

Grob closed public comment.

VanKempen made a motion to approve the minor subdivision application as presented.

Krueger seconded the motion.

The motion carried unanimously 5– 0.

Variance Application 28-V-17 by Shawn Gray: Lots 1 – 3, Block 2, Kola-Teepee Park, Section 10, Township 141, Range 35, Arago Township on Hay Creek, a tributary. Parcels 02.38.01000 and 02.38.01200. Applicant is requesting a variance from Section 904.6 of Shoreland Management Ordinance to exceed the maximum 25% impervious surface area allowed on a lot.

Shawn Gray, 15803 County 40, Park Rapids, MN, presented the variance application. We are applying for a variance on parcel 02.38.01200 just north of Foxy's Bar & Grill. We have acquired the north piece of tax-forfeited land that actually had our well on it. It had an old house on there that we had approval to remove and we would like to turn that into a parking lot. It would allow us to service our customers better. It would also help remove some of the traffic on County 89. The variance we are requesting is to exceed 25% impervious surface on the two lots combined.

Grob commented before we get started I see you submitted a new layout of the parking lot that has changed from the application.

Gray responded yes. After meeting with you on the lot viewal and hearing the concerns from some of our neighbors, Foxy's Bar & Grill along with myself, my parents and Cory Williams want to follow every rule that is there. We want to make it right by the County, the Township and our neighbors. With some of the concerns that were voiced that day were the stormwater runoff area that would have been at the northeast corner. It would have possibly caused concerns to Bill and Kay's property. What we decided to do as a proposed alternative to that is to move the stormwater runoff area to the west side of the property right along County 89. There is a large depression there, along with vegetation and we would have it sloped from the lot line and put it in the depression. It would keep water away from the lot line and the neighbor's area. The new proposed stormwater runoff area would be 80' x 40'. It would make our parking lot a little smaller, but we are okay with that. Some neighbors had concerns about people turning right into the exit of Inlet Circle. Originally we requested to have two exits onto Inlet Circle and we decided to do without the far west exit. We would just have one exit on the east side of the property. We would also place a "No Right Turn" sign so people would exit to the left toward County 89. During the lot viewal, there was discussion of an alternate septic site. We would build into this spot just to the north of our existing drainfield a 42' X 30' spot that will be left untouched for an alternate septic site in the case that our septic site were to fail.

Grob noted the parking lot is going to be L-shaped now and you have displaced it to the east. It is 100' x 75' and is displaced 55' from the alternate septic site.

Gray responded correct. The elevation of the parking lot has to go up a couple feet and there is quite a bit of fill that needs to be brought in. We would fence it off for safety reasons. Our net square footage of the parking lot is smaller, but we are okay with that. We just want to be sure that we are addressing all of the concerns of the neighbors and the Board.

Krueger commented with moving the stormwater runoff area next to County 89 - did you run this past the County Engineer to see what they thought about it? Gray responded we have not. We came up with this plan over the weekend. We are trying to find the best

way to address it and make it as reasonable as possible. An 80' x 40' parking lot with the kind of elevation or depression that is there is bigger than our original one that we had on the east side. Originally our plan was to have most of County 89 as access in the parking lot. I know there was a concern saying we needed to manage flow and manage the entrance. There needs to be some sort of determined entrance. We have not talked to the engineers, although I would certainly be willing to do so.

Krueger remarked I would be concerned with heavy rain spilling over the road.

Gray replied it is certainly something worth considering. I am not a water runoff expert. I know there are calculations that you can figure if you have an inch or two of rain. There is a 4' drop from the elevation of County 89 to the bottom of the depression.

Grob commented I did a rough calculation of the 100' x 80' area and it would fill up if we had 1.7 inches of rain. The exit onto Inlet Circle is clearly not feasible as anyone trying to exit would be sideways trying to get through the stop sign. I also remember the other exit has brush and trees. Have you checked the line of sight to the right of someone coming down Inlet Circle?

Gray remarked you are talking about the proposed new east exit, is that correct?

Grob replied yes. It seems to me that there may be a visibility problem there.

Gray responded I have not looked at it that way. I could certainly walk out there and see what brush may need to be removed and work with the neighbors to see if there is anything else to be removed.

Johnson noted the new proposal takes care of the concerns that I had with the water going to the neighbors.

Grob remarked Arago Township and the County Highway Department will both be affected by what you do. Do you have any documentation that they would approve or agree to what you are requesting?

Gray responded no I do not. I spoke with Bobby Johnson with Arago Township on Tuesday or Monday and I asked him if I could have some documentation for the meeting because Arago Township has said that they are okay with the original exits. I have not spoken to them with the revised proposal. He verbally said they were okay. They plan to put it on their meeting the second Tuesday of August. They will provide documentation at that time. He offered his phone number to anyone who had questions they may call him directly. As far as the County Engineers, my father has visited with them with the original proposal. We have not visited with them with the revised proposal. At that time they were very much in favor. They liked the idea of getting the parking off of County 89.

Krueger asked Buitenwerf if we were to recommend the approval of the CUP, would we be able to recommend that they be sure the County Engineer has reviewed it first?

Grob remarked at this time we are addressing the variance application. Other conditions will be addressed during the conditional use application. Can we place a condition on the

variance application that the County Highway Department and Arago Township have to approve the design?

Buitenwerf responded you can, but staff would advise getting documentation from the County Highway Department and Arago Township prior to taking action.

Grob asked for public comment.

Public comment was given by Darlene Kramer, 12847 Inlet Circle, Park Rapids, MN, commented at the lot view last Thursday I expressed some concern about the turning off of Inlet Circle. I understand that it seems best I would like to see adequate signage about the turn. I also have concerns about it becoming hard surface. It would cause a lot of issues. Did the previous proposal mention a hard surface? I am not sure if this is the proper place to address this, but County 89 is currently a 40 mph speed limit. Is there some way we could get that reduced to 30 mph and place pedestrian signs up? When you turn onto Inlet Circle, it is not exactly the best line of sight.

Public comment was given Bill Wessels, 12741 Inlet Circle, Park Rapids, MN, commented I live next door to Foxy's and I have lived there for 32 years. First of all, I would like to compliment them. They run a good business and they have been good neighbors. I hope we can work things out, but I do not want their good fortune to become my bad fortune. When you drove down my driveway, I think you saw how low my property sits. I just want to be sure we have appropriate runoff so it does not affect my land. There may be some detrimental runoff from the mound that they have already put into place. In one of the drawings, there is 15' of green space next to our property. Is that going to be paved now?

Gray responded no. The parking lot will run from the lot line and slope towards County 89.

Wessels asked how far the driveway will be from our lot line.

Gray replied I do not have that information. I would guess 10 feet.

Public comment was given by David Roforth-Smith, 26127 Isoline Loop, Park Rapids, MN, which is directly across the street from Foxy's. Tonight I come in as we would like to see some "no parking" signs on the north side of the road to force the people to use the parking lot. When the parking lot is empty, there are still cars parked on the road. When we try to exit our driveway, we have to creep out. Even though it is a 40 mph limit, they come over the hill 60 mph at times. I have come close to an accident. I would like to see no parking on the north side and enforce them to use the new parking lot. We would like some form of noise ordinance of some sort. We do attract bikers, and they are great, but I do not like when they sit outside and rev their engines to see who can have the biggest noise. I had to call over last week because the noise was so bad from the two bikers revving their engines. Possibly post a sign that says do not rev your engines.

Public comment was given by Andy Nagel, 26344 County 89, Park Rapids, MN, we have been there about 20 years. We have seen five different owners in that time. I honestly feel that these owners have the best chance at improving the neighborhood. My biggest

concern is the amount of traffic on County 89. I think the parking lot will be great. They are going after resort guests and families and it will be a matter of time before something happens. As they improve their business and the area, it will improve everyone's property values. I support everything that they have done. I think they are on track for a large asset for our neighborhood.

Public comment was given by Cory, (Shawn Gray's business partner), I have had the luxury of working there with the previous owner as well. It puts me there about five years and I wanted to address everyone about their concerns and let them know that they are the exact same concerns that I have had. We would love to immediately enforce the "no parking" signs across the road. Keeping people from parking there would not only be a huge safety asset, but it would decrease the parking accidents as well. We currently have several children in the area and we would like to try to keep traffic off of that loop. Not only would the parking lot help, but the signs slowing people down would too. There is no reason to be going as fast as the people go through there. I would love to get that addressed as well as the other issues that people have brought up. We are just trying to make it better and trying to do it right.

No written correspondence was submitted.

Grob closed public comment.

Grob noted I wrote down several things that were brought up. One of which is "no right turn" on Inlet Circle. There is no real formal review from the County or Township. It basically comes down to approval of a detailed drawing of the entrances and exits that they could approve, along with location of the exit assuring adequate setback from the neighbor. This appears to be driven by an extremely unsafe situation with the parking. If this is approved, we need to find a way to ensure that there will be "no parking" signs placed on County 89. There was also an issue brought up in regards to the speed limit and noise abatement. Will the conditional use permit cover these conditions or do they need to be addressed on the variance?

Buitenwerf responded some of the public comments seem to be addressing issues that deal more with the conditional use permit application than the variance request. As far as the "no parking" and speed limit changes, those are things that are not within the Board of Adjustment's authority to make decisions on. Those would have to be recommendations passed onto the Highway Department and to the County Board to take into consideration.

Grob remarked a possible deterrent for us approving the variance is that the Highway Department and Arago Township should formally agree to what they are planning on doing. We do not have that approval.

Gray remarked we have a verbal agreement for both, but we do not have written documentation.

Grob commented the idea of getting parking off of County 89 and into a parking lot is the right thing to do, but at this point we need to have some formal documentation from the Highway Department and Arago Township.

VanKempen indicated I feel the same way. There should be a stormwater runoff plan. I appreciate what you are trying to do. It appears you have been working with the neighbors and I see a lot of positive things here. We do need more information along the lines of stormwater runoff that the Highway Department is in agreeance with.

Krueger agreed and is in favor of the parking lot and would be willing to exceed the 25% impervious surface. I would like to have the Highway Department's approval first.

Grob asked Buitenwerf can you explain how tabling the variance application works?

Buitenwerf commented I certainly can if that is the direction the Board would like to go. The State of Minnesota has a statute called the 60 day rule which requires the County to act upon an application within 60 days of submittal. The County can extend the review window to up to 120 days maximum if needed. There is also the option for an applicant to fill out a form that would grant the County an indefinite extension of time for the review to occur or you can complete a form that would give a specific deadline by which the County would need to act upon. Those two options exist as does the County's ability to extend its review up to 120 days.

Grob summarized we are entirely in favor of what you are trying to do. We are looking towards approval to exceed the 25% impervious surface requirement, but not approving it without the confirmation from the Highway Department and Arago Township. I believe the request would be that you provide a more formal way out with the proper dimensions and submit it to the Highway Department and Arago Township for approval.

Gray asked would it be possible to approve it with the stipulations we provide those documents to ESO in lieu of waiting another month for the next meeting. We would like to get started on the parking lot as soon as possible.

Grob responded I am going on the ESO recommendation that the best thing is that you provide the documentation before we can approve it.

Gray replied we are another month away from formally approving it.

Krueger remarked the issue is if we approved it and the Highway Department said your plan would not work for the stormwater runoff, then we have approved something that should not have been approved. I understand your frustration. Do you know approximately how long there has been a bar/grill in the area?

Grob responded 40 plus years.

Krueger replied I wanted to establish that it has been in the neighborhood for decades.

Grob explained we would encourage you to sign the proper paperwork to give you an extension to complete the paperwork that we have requested for the August meeting. It is uneasy for us to approve something that is maybe safety issues. Or in conflict with either township or county requirements to approve that and not be consistent.

Gray responded I understand that. That's why I asked if there is a conditional procedure in place that would say this approval is good if this and this are supplied to the Environmental Services Office.

Grob replied possibly, there are enough potential big changes here that it would be probably inappropriate for us to do a variance. Summarized Gray has a choice of extending it to 120 days or indefinitely. Those are his two choices.

Buitenwerf reiterated we haven't seen a motion made yet to table. The options would be one, the Board can table the application and then we would be operating within the full 120 days that the County can extend review which I would recommend that we do. Option two would be that they can complete a form which I can show you Shawn. It says you give the County a definite time period to complete its review. Option three would need a second form I have that is similar to the indefinite extension aside from the fact you can write in the exact number of days that you would allow the County to extend its review.

Gray replied if tabling automatically extends it to 120 days that seems the easiest thing to me. I don't expect it to take a very short amount of time to get an approval for it. We just submitted the application within the last couple of weeks so that leaves plenty of time there.

Grob made a motion to table the variance application and place it on the August PC/BOA meeting agenda with the applicant to complete the following items in time for consideration at the August meeting:

1. Applicant is to provide a detailed drawing of the parking lot proposal with entrances and exits shown.
2. Approval letters from the County Highway Department and Arago Township for the revised parking lot proposal are to be obtained and submitted to the Environmental Services Department.
3. A stormwater management plan for the revised parking lot proposal is to be submitted to the Environmental Services Department.

Krueger seconded the motion.

The motion carried unanimously 5 – 0.

Conditional Use Application 5-CU-17 by Shawn Gray: Lots 1 – 3, Block 2, Kola-Teepee Park, Section 10, Township 141, Range 35, Arago Township on Hay Creek, a tributary. Parcels 02.38.01000 and 02.38.01200. Applicant is requesting conditional use permit per Section 401, Table 1 of the Shoreland Management Ordinance to operate a restaurant/bar.

Brian Gray and Shawn Gray, 15803 County 40, Park Rapids, MN, presented the conditional use application. The conditional use permit is allowing us to operate a restaurant/bar. It was previously grandfathered in and now a conditional use permit is needed in lieu of requesting a variance every time something has to be done. That was

suggested to us from the Environmental Services Office. The use that it has had in the past is the same as the use that it is presently.

Grob commented to my understanding the application needed to be modified because the SSTS was improperly sized for the current capacity. The documentation that I have addresses three issues. The parking lot, the stormwater management and the septic sizing. The stormwater and parking lot safety were addressed as part of the variance and are on hold. The septic system, per staff report, the SSTS issued is 24 gallons per day shy of the design flow needed for the proposed use. This shortage can be resolved by dropping either one bar seat or one restaurant seat from the use's proposed maximum occupancy.

Brian Gray replied according to the design, the new pressure mound that we just put in is overbuilt by approximately one-third as to what was needed to be put in at the time. One of the issues is that the trailer house that is tied into the system is always considered using 300 gallons of water per day. I assume that is normal for a two bedroom. The previous owners lived in it for the five years they owned it. No one lives in the trailer house now so the 300 gallons per day does not even of into the septic system. When we had the new well drilled, we had them install a water meter to show how much water we have actually used. We will have documentation on the amount of water actually going into the tank. I do not find any issue of removing one bar seat, but I wanted to be sure you would find the tank system is overbuilt. When you subtract the trailer house use, there really isn't a problem. We can justify that with the water tank readings if the Board desires.

Johnson commented I would recommend sticking with the staff's recommendation. The system is sized to the State of Minnesota's recommendation. That means nine bar seats and 30 restaurant seats.

Grob asked if anyone was living in the mobile home.

Gray responded no.

VanKempen asked if you plan on allowing someone to live there in the future.

Gray replied no. At this point I have only had people come and stay for a weekend. Since we purchased the place in March 2016, I would guess we had someone stay there less than 20 nights.

Grob remarked as long as could still be used it must be included in the calculations.

Gray responded we understand that.

Grob clarified you are requesting a conditional use permit which involves a new parking lot that we have previously addressed in the variance application. You are wanting to make some changes to the roof and repairs to the foundation with the removal of two sheds.

Gray explained or the option to remove the two sheds.

Grob responded if you are submitting a conditional use permit, we have to be explicate to what you are committing to do. When and if the County Commissioners approve it, you have to take the appropriate action. You are also requesting an option in the future to add a three season screened-in porch as presented on the site plan. We need to address the septic sizing. You have a total of 10 bar seats and 30 restaurant seats and 4 docking slips. A stormwater management plan and conditions to regards of hours of operation.

Grob asked Buitenwerf if we could proceed with the conditional use permit with the open variance application. Or can we proceed and leave the parking lot decision open for something that could be or could not be done?

Buitenwerf responded in light of the Board of Adjustment's action on the variance application, and the significance of the parking lot impact on the business, it would make sense to delay the action on the conditional use application until the outcome of the variance is known. However, since the conditional use application is on the agenda tonight, it would be appropriate to solicit any public comment on this application.

Grob asked for public comment.

Public comment was given by Darlene Kramer, 12847 Inlet Circle, Park Rapids, MN. Would the screen porch that is proposed add additional seating area?

Gray responded I think that is a place that people would be outside, but I don't think there is a number of seats, just a size, 16' x 24', that we are proposing. I think it will be for allowing people to just enjoy outside. In terms of number of seats, I don't know if there is an increase, but it does remove congestion inside the bar. We would have to take out the south wall which would cause us to lose a couple of seats inside. It has also been proposed that perhaps it will be used for a game room. At this point we don't have room for a pool table, we might use the screened in porch for more games. With the parking lot there, it would also be a way to access the building from the parking lot easily without going around.

Grob asked Buitenwerf would it not be appropriate if they are making application for a conditional use permit for Foxy's that they should be making a firm commitment to what the occupancy is? And does outside seating, even the tables out in the back now, contribute to the amount of impact to the septic system? Should there not be some statement of total occupancy or is the board of health only worried about occupancy within the structure?

Buitenwerf replied in regards to the septic sizing that is based on the number of sit down seats. If there are outside seats, those should be accounted for and tallied toward the septic system sizing. The numbers that were provided would be inclusive of any outside seating.

Grob stated if adding the porch results in seating that would have to be inclusive with sizing of the current 39 seats as long as the mobile home is still connected to the septic system. If the mobile home were to go away, they could increase the number of seats?

Buitenwerf answered correct.

Grob summarized if you want a porch and that would include seating, that would have to be included in the total occupancy that you have.

Public comment was given by David Roforth-Smith, 26127 Isoline Loop, Park Rapids, MN, which is directly across the street from Foxy's. I would just like to reiterate the park/no parking on the north side of County 89. Will you have outside usage of the accessory porch and how will you control the noise of outside usage?

Gray responded at this point there is no plan for outside music. We have our Wednesday nights outside, but at this point our porch is not designed for it out there.

Smith added it is the same with the whole biker thing, mentioned in public comment for the variance application. If you could put a sign out that would be great, otherwise go for it.

Grob stated that could be an additional condition we could place on the conditional use permit that the porch will not have any music.

No written correspondence was submitted.

Grob closed public comment.

VanKempen commented there is a condition recommended by the staff for hours in October to May to be from 12:00 p.m. - 10:00 p.m. Does that fit what your business operates in that timeframe?

Gray asked where those hours were recommended from. From the ESO staff?

VanKempen replied yes.

Gray responded probably not on the weekends. We do that during the week, but that doesn't fit on the weekends. If we had a choice, closing our establishment at 10:00 p.m. every night would not be a choice we would make.

Grob stated I think those hours come from your application, "Foxy's is open every day at 11:00 a.m. to begin serving lunch during the summer and 12:00 p.m. opening during the rest of the year. Closing time varies from 10:00 p.m. in off season to 1:00 a.m. during summer season."

Gray replied that may have just been an ambiguous statement in the way I filled out the application. My apologies. I should have clearly stated that during the week in the off season, winter, that 10:00 p.m. - 11:00 p.m. is closing time barring special events. If we have something going on inside, but weekends we are always open until 1:00 a.m. That probably was not very clear in my application.

Grob remarked since you are in a residential neighborhood, I think as far as the conditional use permit, we would want to establish what are the acceptable hours. We

would have to lock in on that when we complete the conditional use permit. I can read the statement from the staff report and you can think about it.

Gray replied okay.

Grob read "From May 15 to October 1, the business shall operate only within the hours of 11:00 a.m. to 1:00 a.m. From October 2 to May 14, the business shall operate only within the hours of noon to 10:00 p.m. The business may operate all seven days of the week."

Gray asked if the recommendation for the conditional use was correct. Is that a normal thing to recommend operating hours for a business?

Grob responded if it is in close proximity to residential areas or if it could potentially impact neighbors, yes.

Gray replied okay, we will keep that under advisement.

Grob stated if you would like to propose something else, then you should under the conditional use permit.

Grob asked Buitenwerf what conditions or recommendations do we have to put on to table it?

Buitenwerf responded if you are going to make a motion to table, then I would cite the fact that you have had a similar motion that passed concerning the variance application that has a bearing on the conditional use permit. Because you don't know the outcome of the variance and the variance affects the outcome of the conditional use permit, that is your reason for tabling it. Unless there are additional items of information you would like the applicants to prepare and provide for the August meeting...

Krueger made a motion to table the conditional use application and place it on the August PC/BOA meeting agenda with applicant to provide additional information needed to approve the variance in order to proceed with the conditional use application.

VanKempen seconded the motion.

The motion carried unanimously 5 – 0.

Board of Adjustment:

Approval of Minutes: June 26, 2017 meeting.

VanKempen made a motion to approve the minutes as presented.

Johnson seconded the motion that carried unanimously 5 - 0.

Old Business: None.

New Business:

Variance Application 21-V-17 by Jason and Stephanie Towley: The South 110' of the N ½ of the S ½ of Gov. Lot 4, Section 12, Township 145, Range 34, Rockwood Township on Plantaganet Lake, a recreational development lake. Parcel 22.12.01600. Applicants are requesting a variance from Sections 503 and 702 of the Shoreland Management Ordinance for a proposed addition to a legal nonconforming residence located in a bluff impact zone.

Jason and Stephanie Towley, 19842 Executive Path, Farmington, MN, presented the variance application. We have a cabin that my grandfather built in three phases. A basement, the A-frame and the addition to the back of the cabin. The addition on the back is a small bedroom and bathroom built without any foundation. It was built on blocks directly on the ground. I believe it was built in the early 1970s. Through the years it has sunk down into the ground to the point that the actual contact with the ground is that the siding is rotting. We cannot close the windows on the bedroom side and it is now infested with mice. We would like to tear that bedroom and bathroom off and replace it with structure southwest away from the lake and the north property line. It would not change the number of bedrooms and bathrooms. The reason for the shift is that the current structure has to attach to an A-frame which is causing problems the way it is currently attached. It is an awkward thing to attach to an A-frame at that height. You create a unique roofline and it is difficult to keep rain and critters out. We would like to shift it south to give the bedroom a partial view of the lake.

Krueger noted the old part did not have a foundation. Will you build a deeper foundation?

Towley responded yes. We would like to go with a floating slab.

Krueger asked if there would be any depth to the slab.

Towley replied it would have footings and then the slab fits on top of the footings.

Krueger asked if they would carry off the excess fill from the footings.

Towley responded correct. Any excess fill would be removed.

Grob asked for public comment.

No public comment was given.

No written correspondence was submitted.

Grob closed public comment.

VanKempen noted it appears the area is pretty much undisturbed with a slight ice ridge. As far as the Ordinance goes and the lake environment, you have done a nice job.

Towley responded the ice ridge is not the prettiest, but we leave it alone.

VanKempen made a motion to approve the variance application as presented and adopt the staff report findings of fact.

Johnson seconded the motion.

Findings of Fact:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules?

Yes (X) No ()

Why or why not? The structure predates the shoreland ordinance and bluff language that was added to the ordinance in 1991. The proposed addition will replace an existing addition on the rear (non-lakeside) of the cabin that is located on a flat area in the 30' setback from the bluff crest. The proposed addition location is the ideal place where an addition could be made to the structure and cause the least amount of impact to the bluff impact zone.

2. Without the variance, is the owner deprived of a reasonable use of the property?

Yes (X) No ()

Why or why not? As stated in the answer to question 1, the residence predates the ordinance and bluff regulations. The existing addition to the rear of the A frame portion of the cabin is noticeably deteriorated and in need of significant repair or replacement. The scope of the proposed addition is reasonably small at 10' x 24' and is a single story addition. It thus does not warrant requiring the entire structure to be moved away from the lake to a conforming setback.

3. Is the stated practical difficulty due to circumstances unique to this property?

Yes (X) No ()

Why or why not? There is a bluff on the lot and the existing residence is built right into and on the bluff crest. There is no way to add onto the structure without the addition being in the bluff impact zone. The proposed location for the addition is the least impacting place where an addition could be placed.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner?

Yes (X) No ()

Why or why not? The residence was constructed by a party other than the landowner prior to the shoreland ordinance being enacted. The bluff regulations were then added to the ordinance in 1991.

5. Will the issuance of the variance maintain the essential character of the locality?

Yes (X) No ()

Why or why not? The proposed addition is only 240 sq. ft. in size with a 35 sq. ft. hallway attaching it to the main A frame portion of the residence while the existing addition is 8' x 17'. The size change is negligible and thus will not harm the locality's character.

6. Does the stated practical difficulty involve more than economic considerations?
Yes (X) No ()

Why or why not? Economics were not cited in the application as the sole difficulty. The difficulty is due to the residence having been built prior to the ordinance being enacted in a slope that later became defined and regulated as a bluff.

The motion carried unanimously 5 – 0.

Variance Application 22-V-17 by Michael and Lisa Bell: Lot 7 Block G, Pine Haven Beach, Section 17, Township 139, Range 34, Hubbard Township on Long Lake, a recreational development lake. Parcel 14.38.07100. Part 1: Applicants are requesting a variance from Section 703 of the Shoreland Management Ordinance (SMO) to construct a lakeside deck that exceeds the maximum allowed 15% of structure ordinary high water mark setback encroachment. Part 2: Requesting a variance from Section 702 of the SMO for a proposed addition and roof alteration to a nonconforming residence located in the shore impact zone. Part 3: Requesting a variance from Section 904.6 of SMO to exceed the 25% impervious surface area threshold with the proposed deck and cabin addition/alteration.

Michael Bell, 12740 Red Gate Road, Evansville, IN, presented the variance application. I am proposing a lakeside deck on the east side of the cabin. The structure would be 14' towards the lake and 18.6' across the front of the house wrapping around to the south end of the cabin. The second addition would be enclosing the existing concrete patio. Currently there is a patio structure on the west side of the cabin that we would like for storage space. We have limited storage as our cabin size is less than 1000 sq. ft.

Grob asked since the size of the impervious surface is an issue, what is the percent of impervious surface as it currently exists today if I were to include the removal of the driveway that is now a grass area.

Bell responded are you asking what the impervious surface is now.

Grob responded what it is prior to any changes.

Bell replied we are not changing the impervious surface on the patio side as it is already occupied by a concrete pad that has been there since 1968. All we are doing is putting walls up and a roof over it. The only impervious surface addition will be the deck.

Grob clarified the impervious surface percentage does not include the apron to the garage. Is that correct?

Bell responded correct. It does not include that. I have turned that into green space.

Grob noted even if you did nothing with the deck, you would still be over the 25% impervious surface.

Krueger remarked the 1996 variance approved no more legal additions to the property. How do we handle that?

Buitenwerf responded part of the variance application would be seeking relief from that condition that was placed on Variance # 96-87. You have the ability to grant a variance from the prior variance's condition if you would like.

Krueger asked what is the 15% allowed size for the lakeward deck.

Buitenwerf responded with the 15% allowance per ordinance, it would be 6.3' lakeward deck based on the 42' ordinary high water mark setback to the nearest point on the cabin.

Krueger noted that would reduce some of the impervious surface.

Grob asked with the condition stated on Variance # 96-87 that states no future additions be allowed on the garage or cabin, would enclosing the patio on the back be an addition?

Buitenwerf responded yes.

Grob asked do we treat the deck separately.

Buitenwerf replied it would be a moved point as we are currently dealing with a situation that is over the impervious threshold. It is hard to say what the Board's intent was back then. My guess was that they were looking at impervious surface, the same as a roof over an addition to the cabin. I would interpret that as the addition is including decks.

Krueger asked if the part in the back is impervious surface. Adding the addition would not change the impervious surface for it.

Buitenwerf responded the proposed addition to the rear of the cabin would go over the existing concrete platform, so the impervious surface for the addition is not going to change significantly from what is currently there other than what the eave overhangs would add.

Johnson noted there is a 9' walking easement.

Bell replied we own both cabins. It is an easement for public access.

Johnson asked what side of the easement is the property line. Could you sell the neighboring lot with the easement?

Bell said there are two separate parcels. We have been coming up here since the 1920s. We have 15 cabins and twenty lots. The original structure is still standing. I would not plan on selling anytime soon.

Johnson noted I just wanted to know how close the deck would be to the neighboring property line.

Bell responded the property line is difficult to distinguish.

Grob clarified I think what he is trying to figure out is if the proposed deck will encroach on the public walking access.

Johnson replied or the setback to the walking easement on the neighboring property.

Bell responded it does not.

VanKempen asked if the walking easement was included with this lot.

Bell replied the walking easement is plotted with the lot next door.

VanKempen noted if the drawings are correct the drainfield is in the walking easement.

Bell responded it is our well.

Grob asked for public comment.

No public comment was given.

No written correspondence was submitted.

Grob closed public comment.

VanKempen remarked I understand the need for eaves on a home. Dealing with the impervious surface percentage that we are dealing with and with the prior variance condition, I feel as though the scale of what you are asking for is more than I can approve.

Bell asked do you mean the enclosure or the deck.

VanKempen replied the deck. I would not approve wrapping it around the cabin.

Krueger commented I would be okay with enclosing the back, but I do have an issue with the front. The first reason is the setback from the lake and the other reason is the impervious surface is very high.

Bell noted I hear your concerns about the deck and I have seen other cabins build floating decks that are even closer to the docks. We are not asking for that. I understand that we are dealing with our property and the variance that was granted back in 1996. We are trying to make improvement to the area. We have been working on the erosion issues as well.

Grob commented with the size of the lot and the impervious surface, it seems what you want to do on the lot is well beyond what is good shoreline management practices. I am not inclined to add more.

Bell asked is there room to compromise on the deck. I know right now I am grandfathered in for a 6' deck. Could I scale it back somewhat?

Grob remarked I cannot see a deck that is any larger than the 15% allowed by Ordinance. The deck seems excessive to me for the property size. Collectively the lot is not set for expansion.

Krueger commented since the variance is in three parts, we could keep it separate from the rest.

Krueger made a motion to approve Part 1 allowing up to the 15% lakeward deck in front of the cabin, approve Part 2, and approve Part 3.

Grob asked if the motion needed to include voiding Variance # 96 – 87. Or does what he is proposing automatically void the previous condition?

Buitenwerf responded if you approve the variance, you would be granting the exception to that condition.

Grob remarked then we do not have to say anything about the other variance.

Buitenwerf noted my only question to what is being requested is what the status is to the proposed covered entry on the south side of the cabin.

Krueger commented my motion does not allow the side deck.

Buitenwerf commented the application also includes rebuilding the roofline to expand the eave overhang. How does your motion address that issue?

Krueger responded that is included in approving Part 2 of the application.

Buitenwerf clarified you stated you did not want to approve the roof addition over the south side porch. The reason for my asking was the eave alteration was the other component to that. I do not want to make assumptions as to what is being approved. Are you okay with the eave overhangs?

Krueger responded yes.

Petersen clarified the only stipulation to the motion is that the lakeside deck is restricted to 6.3' by the allowed 15% ordinance.

Krueger replied yes.

No one seconded the motion.

Grob made a motion to deny variance application as presented and adopt the staff report findings of fact.

Peterson seconded the motion.

Findings of Fact:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules?

Yes () No (X)

Why or why not? The proposed lakeside deck would extend more than twice the allowed distance toward the lake. The deck and proposed cabin addition would cause the lot to have 36.3% impervious surface area. The current drainfield is in the only place it can be located which is in front of the detached garage overhead door and previously was covered by impervious surface and compacted to an unknown degree. Allowing an enlarged residence to be constructed and place a likely increased load on the drainfield would not be in harmony with the ordinance's intent.

2. Without the variance, is the owner deprived of a reasonable use of the property?

Yes () No (X)

Why or why not? The lot currently has a residence on it with an attached concrete platform and a detached garage. The lot can also be used to access the lake and enjoy the outdoors. All of these aforementioned items are reasonable uses of the property. A lakeside deck that complies with Section 703 of the Shoreland Ordinance can also be constructed on the cabin by permit.

3. Is the stated practical difficulty due to circumstances unique to this property?

Yes (X) No ()

Why or why not? The lot is .15 acres in size. It is ~66' wide at the shoreline, 20' wide at the rear lot line, and ~157' deep. The cabin was constructed prior to the ordinance in the shore impact zone and the garage was constructed by variance in 1996.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner?

Yes (X) No ()

Why or why not? The lot and existing house were created prior to the ordinance's enactment. The difficulty is caused by the lot's small size and the cabin's location in the shore impact zone.

5. Will the issuance of the variance maintain the essential character of the locality?

Yes () No (X)

Why or why not? The deck is more excessive than the adjoining properties.

6. Does the stated practical difficulty involve more than economic considerations?

Yes (X) No ()

Why or why not? Economics were not cited in the application as the sole difficulty. The difficulty is due to the unique lot size and trapezoidal shape.

The motion carried unanimously 3 – 2 with Krueger and VanKempen voting nay.

Variance Application 23-V-17 by Hal Baumchen/Little Tree Properties: Lot 11, Block 1, Plat of Island View, Section 3, Township 139, Range 33, Crow Wing Township on Island Lake, a recreational development lake. Parcel 06.51.00900. Applicant is requesting a variance from Section 506 of the Shoreland Management Ordinance for a proposed addition to a guest cottage that will cause the structure to exceed the 700 sq. ft. maximum allowed guest cottage footprint.

Hal Baumchen, 7945 Stone Creek Drive, Chanhassen, MN, presented the variance application. I am asking for a variance to build an addition to a guest cabin on 15223 Chokeycherry Drive, Nevis, MN. The existing cabin is currently 630 sq. ft. We removed a deck and would like to add a 16' x 18' three season porch fully enclosed with windows and a door. It would not be heated. This addition would make the guest cabin a total of 918 sq. ft. The current guest cabin is approximately 188' from the ordinary high water mark. With the addition, it will have a 142' setback. I will not be any closer to the neighbors.

Grob calculated and noted the square footage of the guest cabin and asked for clarification. I came up with 840 sq. ft. What am I missing?

VanKempen asked if the overhang was included in the calculations.

Baumchen replied it is not. The number that I gave you I used 28' instead of 24'.

Grob clarified it would be 840 sq. ft. verses 700 sq. ft.

VanKempen asked what the dimensions were of the deck that was removed.

Baumchen responded 6' x 18'.

VanKempen asked what the 11' x 11' addition on the back side of the cabin was.

Baumchen responded it is a small storage room and bathroom.

Grob opened for public comment.

Krueger noted the addition considerably exceeds the guest cabin requirements.

Grob asked the size of the main cabin.

Baumchen responded approximately 2200 sq. ft.

Krueger commented you could make the addition to the main cabin by permit if you need more space.

Baumchen responded we certainly did consider that. I cannot move forward towards the lake on one side and the other side the house is too close to the property line. On the back side we have the septic drainfield. The last side has the well and the small cabin. I am restricted. I would like to have the space for my son-in-law and daughter. We would appreciate a little more room for dining and living for the family of five.

Grob asked if the back bump out on the guest cabin was the only bathroom.

Baumchen replied yes.

VanKempen remarked if we were trying to keep you at the 700 sq. ft. allowance on the guest cabin, you would be able to add 18' x 8'. That is half of what you are proposing and you would be able to accomplish it by permit. Would you be open to a condition that there would be no additions to the main house if we were to approve the variance application?

Baumchen responded I would be okay with that. If you look at the size of the guest cabin at 700 sq. ft. and the additional 140 sq. ft., it probably seems like a lot. I think the lot is about an acre.

Krueger commented it is an interesting proposal. Taking away from any main house construction to put onto the guest cabin.

Buitenwerf remarked as to the proposed condition. I do not know if there would be sufficient nexus for that to withstand legal scrutiny.

VanKempen commented the reason I asked about the 11' x 11' addition was because I thought that part of the building could be removed, but with an existing bathroom I do not think that is possible.

Grob asked if there was a different location for the bathroom in the guest cabin in order to remove the storage area.

Baumchen responded no.

Grob remarked we are trying to stick with the regulations. Now that people can have guest cabins, they are asking for larger guest cabins and we are trying to hold the line as best that we can.

Baumchen responded I put in a new septic system to accommodate the guest cabin. As you know, they were not allowed for some time and now are. We are trying to use it as it is intended. Just to reiterate my case. We are obstructed from view from the lake, we are a long way from the lake, we are not impacting our neighbors and it is a small allotment that I am requesting.

Written correspondence was received from Chris Perius, 28517 Showshoe Trail, Staples, MN 56479, neither opposing or supporting the variance, but asking for clarification on the application.

No public comment was given.

Grob closed public comment.

Krueger made a motion to deny the variance application as presented and adopt the staff report findings of fact.

Petersen seconded the motion.

Findings of Fact:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules?

Yes () No (X)

Why or why not? The application states that the desired amount of additional living space could be accomplished by adding onto the primary residence by permit. The guest cottage could also be enlarged from its current 432 sq. ft. to 700 sq. ft. (20 sq. ft. shy of the proposal) by permit. Allowing the guest cottage to be made 20 sq. ft. larger than what is allowed would not be in harmony with the ordinance intent when permissible alternatives exist.

2. Without the variance, is the owner deprived of a reasonable use of the property?

Yes () No (X)

Why or why not? There currently is a primary residence and guest cottage on the lot - both of which provide reasonable uses of the property. The guest cottage can also be enlarged 268 sq. ft. by permit. The lot can be used to access the lake and enjoy the outdoors – which are other reasonable uses to which the property can be put by the owner.

3. Is the stated practical difficulty due to circumstances unique to this property?

Yes () No (X)

Why or why not? The property complies with the minimum lot size requirements for guest cottages and the guest cottage complies with all setback requirements – even factoring in the proposed addition location. The application states that the alleged difficulty is that the owner wants to build 20 sq. ft. more than what is allowed by permit onto the existing guest cottage instead of adding living space to the primary residence or being content with a 700 sq. ft. guest cottage.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner?

Yes () No (X)

Why or why not? The house and guest cottage meet all of the setback requirements as does the lot meet all the minimum lot size requirements. The alleged difficulty is created by the landowner's desire to build a 20 sq. ft. larger addition to the existing guest cottage than what is allowed by permit. The application states that additional living space could also be added to the primary residence by permit.

5. Will the issuance of the variance maintain the essential character of the locality?

Yes (X) No ()

Why or why not? The size of the lot, the spacing's and the view of the property with this small change it would not change the character.

6. Does the stated practical difficulty involve more than economic considerations?
Yes (X) No ()

Why or why not? Economics were not cited in the application as the sole difficulty.

The motion carried unanimously 4 -1 with VanKempen voting nay.

Variance Application 24-V-17 by Brett and Sherry Wyman: Part of Gov. Lot 11, Section 1, Township 145, Range 32, Farden Township on Big Wolf Lake, a recreational development lake. Parcel 07.39.01200. Applicants are requesting a variance from Section 702 of the Shoreland Management Ordinance to rebuild and change the roof orientation on a nonconforming residence located in the shore impact zone.

Brett and Sherry Wyman, 51185 Mayberry Drive, Cass Lake, MN, presented the variance application. We originally applied for a variance in May 2004 which was granted. We met with a contractor and came up with a design. We also met with the County Attorney just to make sure we had all of our ducks in a row before I requested a building permit. I requested a building permit in May 2017 which was granted with the proposal. Once I removed the interior walls, I realized the fireplace which was leaning away from the cabin probably pulled the cabin. We had a structural engineer come out last summer to see if the fireplace can be stabilized and there was no guarantee. Once we removed the fireplace and looked at the walls, I contacted the Environmental Services Office to see if could remove the exterior walls. The lady that answered the phone said she would get back to me later that day after she reviewed the variance. I did not hear from her and I had my wife call the next day. Sherry was told at that time that the permit should not have been issued and that a variance application would be needed. I guess with my lack of knowledge, I did not know that I needed a variance to change the roof. My original variance was to add a 10' x 20' addition. I did not know that I had to get a variance to change the roofline. The reason for changing the roofline is economics. The water will now run to the side of the cabin away from the lake instead of towards the lake. It would also be aesthetic reasons. We will be taking half of the roof off in order to put on the 10' x 20' addition. There is no bathroom in the building and that is the reason for the addition.

VanKempen asked if a total teardown and rebuild was in the plan or if you are removing a particular part of the cabin and rebuilding.

Wyman responded at this point we need to tear down the entire cabin. The whole cabin is leaning. There was a tree by the fireplace pushing the fireplace inward. When my parents had the tree removed, the fireplace started tipping away from the cabin.

Grob noted you are requesting to rebuild the entire cabin to the footprint that includes the 10' x 20' addition approved by variance in 2004.

Wyman replied exactly.

VanKempen remarked plus changing the roofline.

Wyman replied correct. If we were to put a roof on the back with less pitch, we will have problems with snow.

Grob noted the current cabin has two bedrooms and you are reducing it down to one bedroom. Is that correct?

Wyman responded yes.

Grob asked for public comment.

No written correspondence was submitted.

No public comment was given.

Grob closed public comment.

VanKempen commented changing the roofline you will be seeing the gable end of the house. I think that will be more aesthetically pleasing.

Krueger responded not only aesthetically pleasing, but a proper way to control the runoff since the structure is only 17' from the lake.

Wyman replied from the shore it is approximately 15'.

Krueger responded from an environmental standpoint it will be much better changing the pitch as proposed.

Grob made a motion to approve the variance application as presented without having to disconnect the septic from the guest cottage and adopt the staff report findings of fact.

VanKempen seconded the motion.

Findings of Fact:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules?

Yes (X) No ()

Why or why not? The lot is only 100' deep between the shoreline and Big Wolf Lake Road and there also is an existing 14.5' x 22.5' accessory structure in this area. The sole change to the cabin will be the roof ridge orientation. The height will stay the same. This impact will be negligible and aesthetic only.

2. Without the variance, is the owner deprived of a reasonable use of the property?

Yes (X) No ()

Why or why not? The cabin has been found by the owners to be in poor condition and in need of replacement to be structurally sound and thus able to support the 10' x 20' addition allowed by Variance 14-V-04. The cabin could be rebuilt by permit.

The only change requiring a variance is the roof ridge orientation being turned 90 degrees.

3. Is the stated practical difficulty due to circumstances unique to this property?
Yes (X) No ()

Why or why not? The lot is 50' wide and only 100' deep between the lake and road. In this space, there also is a 14.5' x 22.5' accessory structure and a 1000 gallon holding tank. The back of the lot on the other side of the road also has very limited space due to an existing accessory structure and wetland that occupies the rear third of this side of the lot. There is not another place on the lot where the cabin could go.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner?
Yes (X) No ()

Why or why not? The lot and existing house were created many decades prior to the ordinance's enactment. The difficulty is caused by the small lot size, location of existing accessory structures, and the road running through the middle of the lot.

5. Will the issuance of the variance maintain the essential character of the locality?
Yes (X) No ()

Why or why not? The new house will be nearly identical to the current house except for the roofline orientation change. The house has been in the location for decades and predates many of the other homes in the neighborhood that is comprised of single family seasonal and year-round residences.

6. Does the stated practical difficulty involve more than economic considerations?
Yes (X) No ()

Why or why not? Economics were not cited in the application as the sole difficulty. The difficulty is due to the unique lot size, location of existing accessory structures, and the road's running through the center of the lot.

The motion carried unanimously 5 – 0.

Variance Application 25-V-17 by Kyle Henry: Part of Gov. Lot 3, Section 25, Township 141, Range 35, Arago Township on Potato Lake, a recreational development lake. Parcel 02.25.00610. Applicant is requesting a variance from Section 902 of the Shoreland Management Ordinance to excavate a portion of a permanent ice ridge and exceed the permissible volume of earthen material that can be moved in a shore impact zone.

Kyle Henry, 1004 Front Ave, Park Rapids, MN, presented the variance application. We would like to cut into the ice ridge to make a 20' x 15' recreational area. We would need to cut down a few trees as well.

Krueger noted you wanted to cut down to the level of the dock.

Henry replied yes.

Krueger asked what is the reason for not wanting to use the spot that is a little lower on the left.

Henry responded to keep it on the path to where the house will eventually be built. No matter where it is placed, I would be cutting down the same amount of trees.

Grob noted you already have a dock and have already removed emergent vegetation for the dock. If you cut through a new place for the dock, you will be cutting through more emergent vegetation.

Henry responded we removed approximately 4' x 4' at the shore. Other than that, it is just where the pontoon was put in and where the dock sat. If we are approved, I would talk to the DNR to see what I am able to do.

Grob asked Buitenwerf do you need a permit to remove any emergent vegetation or are you allowed to cut a certain swath without approval?

Buitenwerf replied I do not know well enough to respond.

Grob remarked I was under the impression they will allow a certain amount, but you need a permit.

Henry responded where the dock is actually setting is the only place where I could place it and pull it up. Now that I have purchased a new dock, I have every intention of removing it and selling it.

VanKempen noted currently there is no home or septic on the lot.

Henry replied correct.

Grob remarked it appears there would be less disturbance where the older dock is rather than cutting through the ice ridge and placing it where you are requesting. In all cases you will be cutting down a lot of trees.

Grob asked for public comment.

No written correspondence was submitted.

No public comment was given.

Grob closed public comment.

Grob made a motion to approve the variance application as presented.

Johnson seconded the motion.

Findings of Fact:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules?

Yes (X) No ()

Why or why not? SMO allow an owner to have a 10' x 20' recreational area by the lake. The proposed location and removal of the ice ridge is reasonable.

2. Without the variance, is the owner deprived of a reasonable use of the property?

Yes (X) No ()

Why or why not? All property owners are entitled to have access to the lake.

3. Is the stated practical difficulty due to circumstances unique to this property?

Yes (X) No ()

Why or why not? There is an ice ridge that runs the full length of the property. Cutting through the ice ridge will cause them to exceed the amount of cubic yards.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner?

Yes (X) No ()

Why or why not? The topography and natural conditions of the lake at the location.

5. Will the issuance of the variance maintain the essential character of the locality?

Yes (X) No ()

Why or why not? As long as the SMO and DNR requirements are maintained for any vegetation removal.

6. Does the stated practical difficulty involve more than economic considerations?

Yes (X) No ()

Why or why not? Economics were not cited in the application as the sole difficulty.

The motion carried unanimously 5 – 0.

Variance Application 26-V-17 by David Hanten: Lot 1, Block 1, Kabekona North Shores, Section 28, Township 143, Range 32, Lakeport Township on Kabekona Lake, a recreational development lake. Parcel 19.51.00100. Applicant is requesting a variance from Section 902 of the Shoreland Management Ordinance for a proposed cut through a permanent ice ridge.

David Hanten, 5701 Brook Drive, Edina, MN, presented the variance application. We would like to cut a 10' section of the ice ridge along the shore of the lake to get our dock in and in the winter we would like to get an ice house out on the lake.

VanKempen noted this lot and application is similar to the previous as it is undeveloped. No cabin, no septic and no well.

Hanten responded that is correct. We have property down the street on the river. We have no access to the lake in the winter time as the river is open all winter. We cannot get to the lake itself which is why we bought this vacant lot so we could dock on the lake and fish.

VanKempen asked how high the ice ridge is.

Hanten responded it is around 3'. Slightly higher than the height of the dock.

Grob noted to my observation during the lot viewal the land is pretty level coming right up to the ice ridge which is about 3' in height. It would appear to me that the current water level is another two or three feet lower than the land level coming up towards the ice ridge. My concern with cutting through an ice ridge like that is if you cut to the water level, you will get erosion from it. Would you be able to put in your dock if we restricted the cut through to be at the level of the main land? That will give you about a foot or more drop off to the lake. That would prevent erosion from occurring.

Hanten responded that was our intention.

Grob asked for public comment.

No written correspondence was submitted.

No public comment was given.

Grob closed public comment.

Grob made a motion to approve the variance application with the following condition:

Condition: 1. The elevation of the bottom of the finished cut in the ice ridge shall be no deeper than the elevation of the ground on the landward side of the ice ridge.

Krueger seconded the motion.

Findings of Fact:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules?

Yes (X) No ()

Why or why not? The intent is to allow land owners to have a reasonable use of the property. Putting a dock out is a reasonable use.

2. Without the variance, is the owner deprived of a reasonable use of the property?

Yes (X) No ()

Why or why not? It is reasonable to put a dock out.

3. Is the stated practical difficulty due to circumstances unique to this property?

Yes (X) No ()

Why or why not? It has a high ice ridge.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner?

Yes (X) No ()

Why or why not? It was caused by the ice push.

5. Will the issuance of the variance maintain the essential character of the locality?

Yes (X) No ()

Why or why not? Docks like this are being placed up and down the shoreline.

6. Does the stated practical difficulty involve more than economic considerations?

Yes (X) No ()

Why or why not? Economics were not cited in the application as the sole difficulty.

The motion carried unanimously 5 – 0.

Variance Application 27-V-17 by Duane and Cheryl Schommer: Lot 3, Block 1, Pineoak Shores, Section 14, Township 139, Range 35, Straight River Township on Moran Lake, a natural environment lake. Parcel 25.40.00300. Applicants are requesting a variance from Sections 507.2 and 902 of the Shoreland Management Ordinance for a mobility path to access the lake that exceeds the 4' maximum allowed width for such and will require excavating more than the permissible volume of earthen material in the shore impact zone and a steep slope.

Duane and Cheryl Schommer, 13608 Blue Heron Trail, Menahga, MN, and Andrew Burton, Septic Solutions, presented the variance application. We are asking for a variance to allow a path to the lake for Duane because of medical reasons.

Duane Schommer commented I have a letter from my doctor. While in Vietnam I was exposed to agent orange. I have congestive heart problems and Type 2 diabetes. I cannot go up and down the hill. I have already rolled the four-wheeler down the hill once already. I need a 6' path to drive a golf cart down to pull out my dock and enjoy the lake.

Cheryl Schommer commented this is basically the only thing we have left for his livelihood. His condition is permanent and will not improve. I believe the doctor wrote a note as well. This is what he has left to enjoy his retirement.

Burton noted in the application we had asphalt and we have changed that to concrete. I personally felt there may be less chemical runoff using concrete rather than asphalt.

Grob asked if this will be a paved path.

Burton responded yes. Paved with concrete.

Grob asked how far down to the lake will this go.

Duane Schommer responded down to the stairs and a turnaround path so I can come back up the hill.

Burton remarked from the existing path on the west side of the property, it goes east 75' and angles toward the lake approximately 60' with a 20' x 16' landing. The high side of the slope will be held with retaining wall blocks. There was a removal of 35 yards.

Grob noted this is a natural environment lake. It was pretty low at the bottom and I was trying to get a visualization on how far back from the water was going to be the edge of the platform. It just seems to me that there is a lot of hill to dig out to be able to create this landing area.

Cheryl Schommer commented Environmental Services Office (ESO) placed flags at the ordinary high water mark setback.

Burton explained we propose to be 2' back from that area. ESO came out and adjusted the ordinary high water mark. We then proposed to stay 2' away from there. From the edge of the lake we are approximately 8' – 10' away.

Grob asked what does the white flag represent.

Duane Schommer responded it is where the turn-a-round will be so I can turn around by the steps and come back up the hill.

Grob asked if the other white flag on the hill is how far into the bank will be cut.

Burton replied it is an approximate distance of 16'. Yes that should be the distance.

Grob remarked you are literally cutting into the bank all the way to the top of the hill.

Burton responded we are cutting straight in a vertical distance of about 5'.

Krueger asked if you have checked into alternate options rather than having a paved path across the entire front of your property. Have you considered going down the east side, having a stop by the stairs and purchasing a lift chair?

Schommer responded no. That would not be feasible. We got an estimate on an elevator for that area from Hill Hiker and it was \$60K to put it in. That does not include the electric. If I am going to have a lift on there, I might as well have a lift from the top to the bottom. Then I would not have to climb the hill.

Krueger commented I was suggesting using the four-wheeler to the stairs. Stop there and get onto the lift. It would cost far less than that.

Grob noted the topography appears to be relatively level coming down the east side.

Cheryl Schommer replied he is not supposed to climb stairs and hills because his heart over works. He has a chronic coronary artery disease along with congestive heart failure. He is on a lot of medications and he is not supposed to climb hills.

Krueger remarked looking at the intent of the ordinance there are two things that I get out of it. One of which is to be able to help someone with a handicap like yours at the same time protect the environment of the lake.

Duane Schommer replied I understand that. That is what we are trying to do too. This is permanent. My heart is not going to get any better, it is only going to get worse. I want to enjoy this while I can. I cannot go down the hill unless I have a path for the four-wheeler. Like I said, it has already rolled over on me. I don't even go there and fish off of the dock anymore.

Grob noted the letter from the doctor basically says a motorized cart would be beneficial. It does not say it is required or that you cannot walk. I do not see anything in the documentation that supports the fact that you could not drive down with your four-wheeler to the top of the hill and come down the east side, which is relatively flat without cutting all the way across.

Cheryl Schommer replied the ground is so soft the four-wheeler does not climb the hill.

Grob remarked I see nothing in the documentation that says he cannot walk up or down those simple little steps.

Cheryl Schommer explained he is not supposed to do steps.

Grob remarked I do not see documentation to support that. All I find is a note that says it would be beneficial.

Cheryl Schommer explained that is the reason for him to get down the hill. He needs something for traction. The hill is soft.

Burton commented it is eroded away. You can see in the photos that there is no vegetation.

VanKempen asked how many feet would it be from the existing path to the stairway.

Burton replied 130'.

VanKempen commented you are wanting to cut into a hillside for a path from the existing path to the stairways which is bad enough and you want to go down another hill. My concern is if you are currently having issues using a four-wheeler, I do not know how digging it out and adding concrete would change the elevation.

Burton replied it would be a flat path.

VanKempen remarked I would have an issue with a four-wheeler, but I feel if you came down the east side to the stairways and had a lift from the stairway down to the water would be possibly more economical feasible in addition to being better for the lake itself. I

am also thinking ahead when you do not own this lot anymore, that pathway will still be there.

Burton asked what about the fact that he cannot remove a dock by hand.

VanKempen responded he would hire someone.

Grob asked if you are hiring someone to do it now.

Duane Schommer responded no. My son comes over to do it. He has family and he cannot come over all of the time.

Grob asked what are you requesting here to assist with the dock removal.

Duane Schommer replied having the path and flatter down there so I can get down there.

Grob asked are you personally going to remove the dock.

Duane Schommer replied no. I am not going to do it.

Krueger noted another alternative using the existing west end path and simply moving your dock over to it.

Burton asked what about the stairway that they still have.

Krueger replied you simply take it out.

Cheryl Schommer asked what about the stairs.

Grob commented he will not need the stairs anymore.

Cheryl Schommer responded he does not, but the rest of us do. If there is in some way that you would approve. We are trying to go about this the right way. I am only trying to help him have his livelihood. I feel like he earned this. We moved up here for him to retire so he could live on that lake and fish. He has not been out there at all and it is hard to watch.

Grob asked if he cannot walk down the steps, how will he crawl into a boat.

Cheryl Schommer replied he can get in and out of a boat. He walks onto the pontoon.

Burton remarked he avoids the steps by taking the path to the proposed turn-a-round spot.

Grob asked if you need a full 20' x 16' area to turn an ATV around.

Burton responded I am sure it can be reduced.

Duane Schommer commented we could reduce it.

Burton commented we could change the dimension to 12'.

Grob commented placing a 6' wide concrete road the entire width of the lot with a large landing, on a natural environment lake, seems inconsistent with protecting the lake. We see the possibility of much less intrusive ways to do it. The west side of the lake is gradual. You would not need near the size of lift that you previously checked into. You would only need about 20'. It would seem to be much cheaper as well.

Cheryl Schommer responded that was my original idea, but I was told by another contractor said we would end up with a 6' retaining wall on that side in order to get it sloped enough to be safe to go down.

Grob asked why does the ATV need to go all the way down to the lake. Why can't it stay at the crest of the hill and utilize a chairlift down to the lake?

Burton remarked a chairlift cannot remove a dock.

Krueger responded you can hire people to remove the dock. Several people do that.

Grob stated if you are putting this in just to remove a dock, that is not a valid reason.

Duane Schommer replied not only is it to remove the dock, it is so I can get down to the lake and go fishing.

Grob asked for public comment.

Public comment was given by John Hockett, Straight River Township Supervisor, 12797 149th Avenue, Menahga, MN. I have lived on that lake since 1948, when my folks bought the farm. The entire hillside is nothing but sugar sand. If you try to run up and down it with a four-wheeler, you will have nothing but wash-outs. The way they want to do it is the right way to do it. They want to cement it so it will not wash out. I have seen other people try to do things on that lake and they have to build retaining walls or put railroad ties in. If you pave it, you have oil from the paving going into the lake. The bank on the lake is a steep incline all the way. I am on the Straight River Township Board and I am here on Duane Becker's behalf because he could not come tonight. The way they are proposing is the right way to do it. He went to Vietnam for us and that should have some consideration also.

No written correspondence was submitted.

Grob closed public comment.

Krueger commented I would like to help them get a way down to the lake but I see alternative ways to do it.

VanKempen commented I feel the same way. I think there are alternatives to this versus to what you have proposed.

Schommer asked have you read the paragraph on the American Disabilities Act. Does that mean anything? I went to fight for this Country and now I am going to get the shaft. We got the shaft when we came home. We got spit on, got ridiculed and I am still coping with this just to get a path. I went over there and did not know that I was going to get this

disease. Now I have a bad heart and type 2 diabetes and I cannot even get a path down to the lake.

Grob explained what we are proposing, taking the lake into consideration, that a path down the left-hand side to a landing area and then a chairlift down to the lake could get you down to the lake and be a lot less intrusive on the lake.

Duane Schommer remarked do you know how important this lake is to this County. When it froze out three or four years ago and the DNR would not even stock it. I went in and talked to the DNR and I asked them what they are going to do to the lake. They stocked it with 30 sunfish and 30 crappie and a few bass. I went in there and got on their case again. The only reason they are doing something to the lake is because I went in there and said something.

Grob responded I cannot help you with the DNR.

Cheryl Schommer asked what type of path can he have.

Grob responded if it was a paved path down the left-hand side. You do not need a path across the whole length of the property and you would not be digging out a 20' x 16' area into the hillside down by the lake.

Cheryl Schommer asked could we do that with concrete.

Grob clarified we do not want the path running the length of the property and back up.

Cheryl Schommer responded I mean the existing road. Can we go from there to the bottom of the hill?

Burton commented I could submit an amended application for the other side.

VanKempen explained you could go straight down and have a turn-a-round area at the top of the stairs and then the chair lift down to the water. This will be more direct to the water. You are not cutting into the hillside. Even with retaining walls I think you will still encounter erosion.

Cheryl Schommer asked would it be more acceptable to submit the request on the other side of the lot.

Grob replied it will depend upon what you propose. There appears to be a simpler way to do this.

Cheryl Schommer remarked we are wanting a safe way for him to get to and from the lake. When he was still able to walk he rolled the lawn mower a few times trying to maintain it.

Grob noted the entire hillside seems to wash out.

Duane Schommer replied yes it does every time it rains.

Krueger asked would you be willing to submit a proposed change to the variance request.

Burton responded yes. We will submit a proposed change.

Krueger asked would you be in favor of tabling the variance.

Cheryl Schommer asked how long will it be.

Krueger replied the August meeting.

Grob noted there have been a couple alternatives proposed. One is to come down the left side to the landing and have a chair lift to the dock. The other is to make it down the existing path to the right-hand side directly down to the lake and move the dock to that location. Those are the two options that we have talked about. You can return with thoughts on how you would do that.

Burton responded they will be leaning towards the existing path. Parking the side-by-side vehicle at the top and using the stair lift does not seem feasible when carrying things. I will approach with the proposed existing path. Removing some excavation so it will be a navigable incline.

Buitenwerf commented will need the amended plan by Friday, August 11, 2017.

Krueger made a motion to table the variance application to allow an alternative proposal to be submitted for consideration at the August PC/BOA meeting.

VanKempen seconded the motion.

The motion carried unanimously 5 – 0.

Miscellaneous:

Communications:

Adjournment:

VanKempen made the motion to adjourn.

Peterson seconded the motion.

The motion passed unanimously 5 – 0.

The meeting adjourned at 9:22 p.m.

Respectfully submitted,

Veronica Andres

Recording Secretary