

HUBBARD COUNTY

Planning Commission/Board of Adjustment meeting minutes

6:00 p.m. on Monday, May 22, 2017

Chairman Ken Grob opened the meeting with the following members present: Tom Krueger, Tim Johnson, Ted VanKempen 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: April 24, 2017 meeting.

Johnson made a motion to approve the minutes as presented. VanKempen seconded the motion that carried unanimously 4 – 0.

Old Business: Sign Ordinance draft review.

Grob began by suggesting we review the individual questions and attorney responses from the Sign Ordinance draft that we submitted for review and address any needed changes.

Grob read through the questions and the Planning Commission made corrections and commented on the edits.

Krueger made a motion to recommend to the County Board of Commissioners the edited Sign Ordinance draft for consideration.

VanKempen seconded the motion that carried unanimously.

New Business:

Conditional Use Application 3-CU-17 by Kenneth Thompson: Lot 28, Block 1, North Oaks, Section 20, Township 140, Range 33, Nevis Township on Lake Belle Taine, a recreational development lake. Parcel 21.61.02800. Applicant is requesting a conditional use permit per Section 401, Table 1 of the Shoreland Management Ordinance to operate a home improvement building contractor professional services business.

Kenneth Thompson, 25269 Chokecherry Lane, Nevis, MN, presented the conditional use application. I am requesting a conditional use permit for a business building that I would like to construct on Highway 34. This will be an expansion for a home improvement company that I currently own.

Grob asked for clarification on the size of the structure.

Thompson responded the back side of the building is 120' x 60' and the front portion of the building is 40' x 40' which will primarily be the show room and office space.

Grob asked for clarification on what type of activity would take place.

Thompson replied customers would come to the show room to view the different products. Sales people and office staff will be available to assist the customers. All of the remodeling work is done off-site. None of the work will be done at this location. We will have materials such as windows, siding and insulation delivered there.

Grob asked if the entrance to the facility will be off of Elderberry Circle.

Thompson responded that is correct.

Krueger asked how many employees will be at the facility.

Thompson responded we will start off with less than six and grow from there. We have multiple employees for different projects.

Krueger asked if Thompson had an employee cap.

Thompson replied he did not expect more than 20 or 25 employees. There may be sub-contractors that would come to pick up materials and then head to the job site.

Krueger asked what the hours of operation would be for the showroom.

Thompson responded 9 a.m. to 5:00 p.m.

Grob asked how many days a week would the facility be open.

Thompson responded five or six days a week including Saturday.

Johnson noted the storage of the materials and equipment will be on the back side of the facility. Is the back side State Highway 34?

Thompson responded no. The larger portion of the facility will store the materials.

Johnson asked if the materials would be stored inside.

Thompson replied correct.

Grob asked for public comment.

No written correspondence was submitted.

No public comment was given.

Grob closed public comment.

Grob read through the proposed conditions prepared by the Environmental Services Office.

Krueger proposed an additional condition in which a cap would be placed on the number of employees. Without a cap it could be unlimited and I would have trouble entering a "yes" to question # 7 which is, "Is the requested use compatible with adjacent land uses?"

Thompson agreed to the maximum number of employees and acknowledged the conditions.

VanKempen made a motion to recommend to the County Board of Commissioners that the conditional use application be approved with the following conditions and adopt the staff report findings of fact.

Conditions:

1. This conditional use permit (CUP) is for the operation of the entire premises as one home improvement building contractor professional services business use venture. As such, any land, that through subdivision or addition to the property to which the CUP is granted, is added or subtracted, is/are not granted or allowed the right to operate in accordance with the CUP without first applying for and obtaining the necessary CUP from the County.
2. The SSTS that will service the proposed new structure in which the business will be housed must be permitted, installed, and receive a passing compliance inspection before the operating permit for this use will be issued.
3. Access to the property shall only be via the proposed driveway that is to be constructed to provide access to the property off of Western Avenue.
4. All products and building materials will be stored within the 60' x 120' + 40' x 40' structure proposed to be constructed in which the business will operate. No products and building materials shall be stored outside the structure.
5. The maximum number of employees allowed shall not exceed 25, not including subcontractors.

Krueger seconded the motion.

Findings of Fact:

1. Is the requested use consistent with public health, safety, and welfare?
Yes (X) No ()

Why or why not?

The proposed use falls under the Professional Services conditional use category in the ordinance. There are commercial and non-residential uses scattered along this stretch of Highway 34. For example, a church use exists ¼ mile east of the subject property and a storage unit business is located ¼ mile west of the subject property. The access road to the property will be off of Elderberry Circle rather than Highway 34 which will provide the safest option for routing vehicle traffic to/from the business. The business structure to be built will be located near the southeast property line and centered on the lot's width so that the road right-of-way setback from Highway 34 will be more than met. Highway 34 runs straight along this lot and over a quarter-mile either direction

from it and Elderberry Circle services two dozen plus lots so the sight lines to/from Elderberry Circle are good and there is no history of traffic safety issues at this intersection.

2. Is the requested use consistent with the goal of preventing and controlling water pollution, including sedimentation and nutrient loading?

Yes (X) No ()

Why or why not?

The property sits between Lake Belletaine and Sixth Crow Wing Lake. It is ~675' from Belletaine and ~1700' from Sixth Crow Wing. Highway 34 lies between the property and Belletaine so any potential stormwater runoff from this lot would be stopped from continuing on toward the lake by the road bed. The lot is very flat and underlain by sandy soils that accept stormwater readily. The proposed driveway and structure will stay well under of the 25% impervious surface area threshold.

3. Will the requested use not adversely affect the site's existing topography, drainage features, and vegetative cover?

Yes (X) No ()

Why or why not?

The lot is devoid of tree cover aside from the far northeast corner. It historically has been mown for hay. The lot is very level and has sandy soils. The proposed driveway and structure will require minimal grading work. The lot is well suited to the proposed use because the impact to existing vegetation and terrain will be negligible.

4. Is the requested use's site location reasonable in relation to any floodplain and/or floodway of rivers or tributaries?

Yes (X) No ()

Why or why not?

There are no FEMA designated floodplains in Hubbard County. The lot is right at the edge of the 1000' shoreland jurisdictional area for Belletaine. Highway 34 separates it from Lake Belletaine and the lot is ~14' higher in elevation than Belletaine.

5. Has the erosion potential of the site based upon the degree and direction of slope, soil type, and existing vegetative cover been adequately addressed for the requested use?

Yes (X) No ()

Why or why not?

The portion of the lot where the business structure and driveway will be placed has historically been mown for hay so it is flat, covered in grass, and has dry sandy soil with no wetlands. The proposed structure and driveway will not require any site grading other than bringing in appropriate base material. The lot is very flat and separated from

Belletaine by the Highway 34 road grade so stormwater runoff that might not percolate into the lot's sandy soils has no way of reaching the lake.

6. Is the site in harmony with existing and proposed access roads?

Yes (X) No ()

Why or why not?

A driveway to provide access to the business structure is proposed to access onto Elderberry Circle midway down the north-south axis of the lot. This access point is the best possible place for directing vehicle traffic to the business as it provides the safest option. Elderberry Circle services over two dozen existing residential lots and thus is enough of a road that it is visible and familiar to local traffic on Highway 34. Highway 34 is very straight for at least a ¼ mile either direction from the property so sight lines to Elderberry Circle are good. There is not a known history of any traffic accident issues with the Highway 34 and Elderberry Circle intersection. The anticipated customer and employee traffic volume will not be high (i.e. less than 36 vehicles/day) and with the lot being the first one off of Hwy 71 on Elderberry Circle, there are no other properties by which traffic will need to pass so the impact to other properties on the road will be minimal.

7. Is the requested use compatible with adjacent land uses?

Yes (X) No ()

Why or why not?

The area is predominantly residential use, but there is an existing church use a ¼ mile northeast of this lot on Highway 34 and there is an existing storage unit business a ¼ mile southwest of this lot on Highway 34. There is a consistent scattering of commercial uses along this stretch of Highway 34. There is a residence on the adjoining 5.8 acre lot to the east. The 4.47 acre lot adjacent lot to the southeast is undeveloped. The lot to the west on the opposite side of Elderberry Circle is 2.5 acres in size and has a single family residence on it. The north side of the lot is adjacent to Highway 34 and the property on the north side of the highway does not have any residences or other structures on it because it is only ~150' deep and sandwiched between County 80 and Highway 34. This area thus serves as an effective buffer between the subject lot and the riparian residential lots on Belletaine.

8. Does the requested use have a reasonable need to be in a shoreland location?

Yes (X) No ()

Why or why not?

Much of Hubbard County lies in shoreland areas. Much of the county's arterial roads run through shoreland areas and along lakes. Highway 34 is such an arterial road and in such a situation. It therefore makes sense that a commercial business would want to locate on the road for visibility and accessibility. Professional services uses are allowed in shoreland areas as a conditional use because the County through the Shoreland

Ordinance recognizes how shoreland areas are intrinsically connected to the County's economic lifeblood.

9. Is the amount of liquid waste to be generated reasonable and the proposed sewage disposal system adequate to accommodate such?

Yes (X) No ()

Why or why not? An SSTS design for the proposed structure was submitted as part of the application and approved by the Env. Services Department. There is ample room and suitable soils on the lot for a septic system. The system is sized similar to the sizing used for a typical three bedroom residence which is a very reasonably sized system as a residence could be constructed on the lot by permit and without need of a conditional use permit.

10. Will the visibility of structures and other facilities as viewed from public waters comply with Section 901 of the Ordinance?

Yes (X) No ()

Why or why not? Section 901 deals with riparian lots and the area of land between the ordinary high water mark (OHW) and the 100' OHW structure setback. This lot is ~675' from Belletaine at its nearest point. There is dense wooded vegetation between the lot and the lake such that the structure and activity proposed for this lot will not be visible from the lake.

11. Is the site adequate for water supply and on-site sewage treatment systems?

Yes (X) No ()

Why or why not? The lot is 4.13 acres in size and 310' deep x 560' wide. An SSTS design for the system to service the proposed business structure is on file and has been approved. The lot's size will allow plenty of room and options for where a well can be placed and meet setbacks. With the property being between two lakes and there being less than 20' elevation difference between the lot and Belletaine, there should not be any difficulty in reaching usable water in sufficient quantity.

12. Are the affected public waters suited to and able to safely accommodate the types, uses, and numbers of watercraft that the use will generate?

Yes (X) No ()

Why or why not? The use will not generate any watercraft as it is a home improvement building contractor business. The lot is also located on a non-riparian lot that is situated at the furthest extent possible within the 1000' shoreland jurisdictional area without going outside said area.

The motion carried unanimously 4 – 0.

Conditional Use Application 4-CU-17 by Hubbard County Parks and Recreation: Part of Gov. Lot 7 and Part of Gov. Lot 8, Section 33, Township 144, Range 32, Hart Lake Township on Garfield Lake, a recreational development lake. Parcel 10.33.00580. Applicant is requesting a conditional use permit per Section 401, Table 1 of the Shoreland Management Ordinance for a proposed County park.

Chip Lohmeier, Hubbard County Natural Resource Management Department Manager, 301 Crocus Hill, Park Rapids, MN, presented the conditional use application. This particular lot has been a “quasi” public beach for many years. The lot was donated to Hubbard County as part of an agreement to realign a township road and develop other lots. We would like to close off the former parking area to motorized traffic and have patrons utilize the parking lot that was installed last year. The beach area would remain as a beach.

VanKempen asked if there would be any restroom facilities.

Lohmeier stated not at this time. If we were to have a porta potty, it would be located in the parking lot.

Grob asked why a porta potty would not be placed closer to the swimming area.

Lohmeier responded it would not meet setback requirements.

Buitenwerf remarked it would not meet Minnesota Pollution Control Agency requirements either.

Grob clarified you do not ever plan on having restroom facilities there.

Lohmeier replied correct. We only plan to close off the old township road that runs along the lakeshore and place swimming buoys in the water. As with anything, if changes need to be made, we would come back to the Planning Commission for approval.

Grob mentioned the safety concerns of people walking along the road from the parking lot to the beach. The concern that was expressed was when people start parking along the road because it is closer. Are there any thoughts to placing no parking signs on both sides of the road? This would allow more visibility for people walking along the road.

Lohmeier responded we would be willing to work with the township to install no parking signs.

Johannsen commented what they are proposing is better than what they had in the past.

Grob asked if a condition should be placed to work with the township for no parking signs on the road.

Lohmeier agreed that the condition would be reasonable.

Grob asked for public comment.

No written correspondence was submitted.

No public comment was given.

Grob closed public comment.

Grob proposed two conditions be placed on the conditional use application. One of which is from the staff report and the other being “no parking” signs will be placed along both sides of Pickerel Road between the beach and the parking lot.

VanKempen asked if there will be a gate at the entrance.

Lohmeier replied yes. We would like to be able to continue to get equipment in there such as lawn mowers or a skid steer in case there is a need to clean up the beach area.

VanKempen suggested a gravel walkway along the road could be utilized in the future.

Johannsen asked if there was a specific reason the road was not wider.

Buitenwerf responded the road width limitation could be due to the Wetland Conservation Act requirements.

VanKempen noted if they ever wanted to construct a walkway to the beach, if it was not located near the road, it would need to be a boardwalk through the wetland.

VanKempen made a motion to recommend to the County Board of Commissioners that the conditional use application be approved with the following conditions and adopt the staff report findings of fact.

Conditions:

1. This conditional use permit (CUP) is for the operation of the entire premises as one County Park use venture. As such, any land, that through subdivision or addition to the property to which the CUP is granted, is added or subtracted, is/are not granted or allowed the right to operate in accordance with the CUP without first applying for and obtaining the necessary CUP from the County.
2. “No parking” signs will be placed along both sides of Pickerel Road between the beach and the parking lot.

Johnson seconded the motion.

Findings of Fact:

1. Is the requested use consistent with public health, safety, and welfare?

Yes (X) No ()

Why or why not?

A county park is allowed as a conditional use in a recreational development classified shoreland area such as exists on Garfield Lake. The beach on this property has historically been used as a local swimming beach so that aspect of the property's use

will not change. Safety measures will be used to mark the swimming area and post that no lifeguard is on duty. A vehicle parking area off of the township road has been provided to guard against beach/park users parking on the shoulders of the township road. There are six newly created residential lots to the south of the park property. There is a 22 acre tract to the east of the property that is undeveloped. The quarter section of land north of the property is undeveloped and is occupied by a large wetland complex. As the shoreline has historically been used as a swimming beach without any issues, there is evidence the proposed use will fit into the area well and aid public health and welfare by providing a County park in this part of the County for residents and visitors to enjoy.

2. Is the requested use consistent with the goal of preventing and controlling water pollution, including sedimentation and nutrient loading?

Yes (X) No ()

Why or why not?

The sole improvement made to the property is the 35' x 50' parking area that will be located almost 600' from the shoreline of Garfield Lake. The property is very flat so any runoff from the parking area will be absorbed by the soil in its immediate vicinity.

3. Will the requested use not adversely affect the site's existing topography, drainage features, and vegetative cover?

Yes (X) No ()

Why or why not?

As mentioned in the answer to question two, the sole improvement proposed in the application for the property is a 35' x 50' vehicle parking area that will be located almost 600' from the shoreline. The lot is very flat so the parking area creation involved little, if any, grading and just placing sufficient gravel to create a usable base. The rest of the property will be left in its natural state which is wooded wetlands for the first 350' back from the lake and then an old open field for the balance of the lot.

4. Is the requested use's site location reasonable in relation to any floodplain and/or floodway of rivers or tributaries?

Yes (X) No ()

Why or why not?

There are no FEMA designated floodplains in Hubbard County. No flooding has been historically observed in the area.

5. Has the erosion potential of the site based upon the degree and direction of slope, soil type, and existing vegetative cover been adequately addressed for the requested use?

Yes (X) No ()

Why or why not?

The proposed use involves very little change to the property. The swimming beach that will be the focal point naturally exists. No work to it is proposed or needed. The sole improvement is a 35' x 50' vehicle parking area located 600' from the shoreline. The lot is very flat and the near lake portion consists of Types 7 and 8 wetlands for the first 350' back from the shoreline. No other improvements are proposed so the possibility of the park use creating any erosion potential is negligible.

6. Is the site in harmony with existing and proposed access roads?

Yes (X) No ()

Why or why not?

A new section of Pickerel Road (a township road) that was constructed last year runs east-west on the north side of the lot in a 66' right-of-way. The parking area abuts and is accessed right off of this new stretch of Pickerel Road. Access to the park is good as park users can reach it from the north and east via Pickerel Road that runs continuously through the park.

7. Is the requested use compatible with adjacent land uses?

Yes (X) No ()

Why or why not?

As mentioned in the answer to question 1, the park is situated in a largely undeveloped area on the lake. Hundreds of acres to the north and east of the lot are undeveloped and largely comprised of a large wetland complex that drains into Garfield Lake. Six new residential lots were recently created to the south of the park. Only one of these six lots currently has a residence on it. The other lots are unimproved at present. Given the park's rustic nature, it ought to fit into the area well and not pose any land use compatibility issues.

8. Does the requested use have a reasonable need to be in a shoreland location?

Yes (X) No ()

Why or why not?

A park whose focus is to provide a public swimming beach has a very reasonable need to be in a shoreland area. A swimming beach can only be located on a riparian lakeshore lot.

9. Is the amount of liquid waste to be generated reasonable and the proposed sewage disposal system adequate to accommodate such?

Yes (X) No ()

Why or why not? There will not be any restroom facilities at this time.

10. Will the visibility of structures and other facilities as viewed from public waters comply with Section 901 of the Ordinance?

Yes (X) No ()

Why or why not?

No structures or other facilities are proposed to be located on the park. The park is to be rustic in nature with the sole improvement being a 35' x 50' vehicle parking area that will be 600' from the shoreline and not at all visible from the lake due to the heavy mature tree cover located in the first 350' back from the shoreline.

11. Is the site adequate for water supply and on-site sewage treatment systems?

Yes (X) No ()

Why or why not?

No water supply system nor septic system is proposed for the park because the park is intended to be rustic in nature and primarily used as a public swimming beach.

12. Are the affected public waters suited to and able to safely accommodate the types, uses, and numbers of watercraft that the use will generate?

Yes (X) No ()

Why or why not?

The use will not involve any watercraft usage of Garfield Lake.

The motion carried unanimously 4 – 0.

Preliminary Plat Application of Plantagenet Bay Estates by Bradley Anderson: Gov. Lot 4, Section 18, Township 145, Range 33, Helga Township on Lake Plantagenet, a recreational development lake. Parcels 11.18.00700 and 11.18.00710. Applicant is requesting to plat 27.2 acres into 10 residential lots.

No one presented the preliminary plat application on behalf of the applicant.

Krueger commented during the lot viewal we determined the residential lot suitable area was sufficient and the septic sites were suitable for every lot. I see no problems approving the preliminary plat application.

Grob asked if Helga Township approved the plat application.

Buitenwerf replied Helga Township has approved the preliminary plat application.

Grob noted all documentation in the application seems to be in order.

Grob asked for public comment.

No written correspondence was submitted.

No public comment was given.

Grob closed public comment.

Krueger made a motion to recommend to the County Board of Commissioners that the preliminary plat application be approved.

VanKempen seconded the motion.

The motion carried unanimously 4 – 0.

Board of Adjustment:

Approval of Minutes: April 24, 2017 meeting.

VanKempen made a motion to approve the minutes as presented.

Johnson seconded the motion that carried unanimously 4 - 0.

Old Business: None.

New Business:

Variance Application 7-V-17 by Michael and Monique Jensen: Part of Lot 13 and Lots 14 – 24, Block 1, Kola Tepee Park. Section 10, Township 141, Range 35, Arago Township on Island Lake, a recreational development lake. Parcel 02.38.00900. Applicants are requesting a variance from Section 701 of the Shoreland Management Ordinance for a proposed addition to a residential structure that is part of a nonconforming multiple residential dwelling use.

Michael and Monique Jensen, 1320 Pondview Court, Shokapee, MN, presented the variance application. We are wanting to put a 6' x 7' addition on the northwest corner of our cabin. It would be used primarily for utilities. We would like to move our hot water heater out of the bathroom and into the proposed utility room. We would also like to add a water softening unit.

Grob asked Buitenwerf if this could normally be done by permit, except in this situation as it is a nonconforming multiple dwelling use.

Buitenwerf replied correct.

Johnson asked if there are any property lines around each individual structure.

Jensen replied at this time we do not have anything designated. The way it is worded, each owner has 1/8th undivided interest.

VanKempen commented the request seems to be a small addition that is not encroaching toward the lake. It seems to be a reasonable request to relocate the utilities in order to have a full size bathroom facility.

Grob asked for public comment.

No written correspondence was submitted.

No public comment was given.

Grob closed public comment.

Johnson commented with the road on the back side of the property being so close there is not room for an addition. This seems to be the appropriate location for an addition.

Johnson made a motion to approve the variance application as presented 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? Were it not for the fact that the property use is a legal nonconformity, the proposed addition to this cabin would be allowed by permit. The addition will not go closer to the lake than the existing cabin and is a simple 6' x 7' addition to square off the exterior corner of the cabin. The addition will not increase the nonconforming use's impact to the lake or environment in any significant way.

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

Yes (X) No ()

Why or why not? Adding a 6' x 7' single story addition to a 558 sq. ft. single story cabin for the purposes of allowing a space to house a water heater, well pump, etc. is a reasonable use of the property.

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

Yes (X) No ()

Why or why not? The property is a legal nonconforming multiple residential dwelling use. Section 701 of the Shoreland Management Ordinance (SMO) requires a variance for any alteration or expansion to a structure devoted in part or whole to a nonconforming use. The proposed addition would be allowed by permit per Section 702 of the SMO were it not for the Section 701 requirement. One owner would like to have a conditional use permit, but the other owners have not agreed to pursue it at this time.

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 applicants were not joint owners in the property at the time the use commenced. The SMO requires a variance to alter or expand a structure devoted in part or whole to a nonconforming use.

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

Yes (X) No ()

Why or why not? The addition is only 6' x 7' in footprint, will be the same height as the existing single story cabin, and will simply square off the exterior corner of the cabin. The existing cabin is under 600 sq. ft. in footprint so no drastic change to the locality will occur as a result of this addition.

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 ordinance requiring a variance to alter or expand a structure devoted in part or whole to a nonconforming use.

The motion carried unanimously 4 – 0.

Variance Application 8-V-17 by Thomas and Eunice Allen: Part of Gov. Lot 2, Section 16, Township 139, Range 33, Crow Wing Township on Third Crow Wing Lake, a recreational development lake. Parcel 06.16.01500. Applicants are requesting a variance from Section 702 of the Shoreland Management Ordinance for a proposed garage addition to a nonconforming residential structure located in the shore impact zone.

Tom Allen, 24578 State 87, Nevis, MN, presented the variance application. We would like to build a 28' x 28' garage on the southeast corner of the house.

Grab asked why did you chose to have it attached rather than a different location.

Allen responded I would like it attached to get from the house to the garage without going outside. The house is close to the lake and the highway and there is not another suitable location that would meet all of the setbacks.

VanKempen asked if an attached garage was preferred.

Allen replies yes. There is plenty of room on the other side, but it would be closer to the highway and the lake.

Grob noted during the lot viewal it appears your home is in the shore impact zone as it is 25' from the lake. Traditionally, when someone wants to add a structure in the shore impact zone, even when allowed by variance, we look for ways to mitigate potential run-off. I believe the staff report indicated close to 20% of impervious surface. During the lot viewal, you indicated the roof structure would have gutters running towards the lake and the road. I feel in order to protect the lake from stormwater run-off, I would like to see a condition that you place gutters on the garage that would direct water away from the lake. I feel the topography is such that you could run it off the front of the garage into the low area utilizing a little berm to assure run-off does not flow towards the lake.

Allen replied he would be willing to do that.

Grob remarked the entire shoreline is rip-rapped already. Looking toward the front, there does not seem to be opportunity to put an effective buffer of any kind. The best thing we can do is not let any more water into the lake and be sure that water from the structure would be diverted away.

Allen responded he believes there will be less water as the previous owners had rock all around the house and never did gutter that side of the house. I plan on guttering it and directing the water away from the lake.

VanKempen agreed this is the best location for the request.

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 and adopt the staff report findings of fact with the following condition:

1. Gutters must be installed and maintained on the garage that direct water away from the lake.

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 ~200' deep where the house is located and is as shallow as ~150' on its west side. Thirty-three feet of the lot depth is consumed by the Highway 87 right-of-way. The addition itself will be located outside of the shore impact zone and 10' of its width will be hidden from view from the lake because it will be behind the existing cabin.

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

Yes (X) No ()

Why or why not? Having a garage for a year-round residence given what winters can be like up here is a reasonable request as most residential properties have a

two car garage as a standard feature. The proposed 28' x 28' garage size is very reasonable in size given the size of modern vehicles.

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

Yes (X) No ()

Why or why not? The lot ranges from 150' deep on its west end to 200' deep where the cabin is located. The rear lot line coincides with the Highway 87 centerline. With a 100' OHW setback, 33' ROW width from centerline, and a 50' ROW setback, there is insufficient room left on the property to build a garage that would be able to meet these three setbacks.

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 Highway 87 predate the shoreland ordinance and the difficulty is the lot's depth relative to the OHW and road right-of-way setbacks.

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

Yes (X) No ()

Why or why not? Many of the lots in this area have garages be they attached or detached. The proposed garage size at 28' x 28' is very reasonable and sized such that there will not be more space than what will be taken up by two vehicles. The garage will be set further back from Highway 87 than most of the garages and cabins in the area and be equal to or greater in OHW setback than the other cabins and garages on neighboring lots.

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 the lot's depth as explained above in responses to other findings of fact questions.

The motion carried unanimously 4 – 0.

Variance Application 9-V-17 by Greg and Lisa Ackerman: Lot 6, Block 1, Little Sand Lake First Addition, Section 36, Township 141, Range 34, Lake Emma Township on Little Sand Lake, a recreational development lake. Parcel 16.84.00600. Applicants are requesting a variance from Section 507.4 of the Shoreland Management Ordinance to allow a fence with a 0% unobstructed view within the 100' ordinary high water mark setback.

Greg and Lisa Ackerman, 17318 210th Street, Park Rapids, MN, presented the variance application. I would like to construct a fence with a 0% unobstructed view in the shore impact zone.

Johnson asked how long has the property been owned by you.

Ackerman responded I purchased the property in 2015.

Johnson asked during your time there, have you seen a portable toilet on the landing.

Ackerman responded no.

VanKempen asked if you are going to utilize the existing fence and fill in the gaps with additional boards.

Ackerman replied yes. I would like to remove the boards on the opposite side and fill in the spaces on one side of the fence.

VanKempen asked if the fence would be the same length.

Ackerman replied yes. I believe the ordinance was put in place for a view of the water for adjoining property owners. I do not believe that affects this.

Grob noted during the lot view I feel the fence does not obstruct the view for neighboring properties. The property next door is the public access and it does not obstruct the view of the west neighbor.

Grob asked for public comment.

The following written correspondence was submitted:

Letter from D.M. Smith and K.M. Netland, 1306 72nd Avenue North, Minneapolis, MN 55403, opposing the application.

Letter from Gerry and Ann Kaluzny, 1922 Highland Parkway, St. Paul, MN 55116, opposing the application.

No public comment was given.

Grob closed public comment.

VanKempen commented he did not see any neighboring properties having an obstructed view of the lake due to the fence.

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

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 of the 50% unobstructed view language is to not adversely impact the lake view for neighboring residential lot owners. This situation is different in that the neighboring lot is a public access. Here, it makes sense to provide greater privacy due to it being an atypical situation where a public space adjoins a privately owned lot.

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 be able to enjoy one's lake property without having multiple onlookers on an adjoining access or having to deal with the noise and distraction that comes from the activity associated with a public access.

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

Yes (X) No ()

Why or why not? The adjoining property to the north is a State public access. The 50% unobstructed view fence language was designed for situations of adjoining privately owned residential riparian lots. The land use at a public access is much different than that on a privately owned lake lot.

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 landowner has no control over the ownership of the adjoining lot and the fact that the lot is a State public access. The landowner also has no control over the fact that the access road to the public access and the access launching ramp and parking area are all right along the landowner's north lot line.

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

Yes (X) No ()

Why or why not? Fences are allowed to be placed on property lines. The variance is simply allowing a fence to be constructed within the OHW setback at a 100% obstructed rather than 50% obstructed view. With the adjoining lot use being that of a State public access, a more solid fence will likely benefit the locality's character more by causing less of a disruption to the private residential use occurring on the applicants' lot than if the variance is not granted.

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 situation of this lot adjoining a State public access.

The motion carried unanimously 4 – 0.

Variance Application 10-V-17 by Steven Deal: Part of Gov. Lot 6, Section 13, Township 141, Range 34, Lake Emma Township on Ojibway Lake, a recreational development lake. Parcel 16.13.03570. Applicant is requesting a variance from Section 502.2 of the Shoreland Management Ordinance for a proposed platform to be located at less than the required 100' ordinary high water mark setback.

Jamie Ledin, Abra Landscaping, 21200 Humble Drive, Park Rapids, MN, presented the variance application. We are wanting to place a 16' diameter flagstone platform with a fire pit in less than the 100' ordinary high water mark setback. The area we are proposing is the flattest area available from the house to the lake.

Grob noted you have been granted a permit to redo the steps with a design down to the lake and the access is close to where you are proposing the platform with fire pit. Is that correct?

Ledin responded yes.

Johnson asked if the current owners developed this property from the beginning.

Ledin replied I believe they purchased the house two years ago.

Johnson noted it was developed by a previous owner.

VanKempen commented on the photo that was displayed on the Board room TV monitors, on the map, and asked if the platform would be in the open area.

Ledin commented it would be located toward the end of the opening over the ridge.

VanKempen asked if the ravine empties into the lake.

Ledin replied not that he is aware of.

VanKempen noted if the platform and fire pit was located at the 100' ordinary high water mark setback, you would need to cut down some of the trees.

Krueger remarked the photo illustrates the open area is the only place to construct the platform without having to remove trees.

Ledin explained he will be adding boulders throughout the hillside to help hold everything back, on the steeper parts of the hill, near the step area.

Johnson remarked the logical spot for the platform is the large open area. The platform will be located over the back slope creating zero run-off for the new construction to the lake. Is that correct?

Ledin replied yes.

Grob noted this situation is problematic as you have space on the property to easily relocate the platform. For us to allow an item to be within the ordinary high water mark setback when there is room on the lot makes it difficult for us to justify a practical difficulty. The only thing I have heard is that it is probably the place where you may have less fire potential with trees. A lot of people build campfires in the woods. I realize the run-off to the lake would not be affected. Is there any reason why it could not be placed up on the other side of the house where it appears a fire pit has originally been located?

Ledin commented I believe that is the septic area. They would like to utilize the area closer towards the lake and walkway.

Grob asked for public comment.

No written correspondence was submitted.

No public comment was given.

Grob closed public comment.

Grob remarked he is struggling approving the variance application when there are alternate locations.

Johnson mentioned as far as dealing with the practical difficulty due to circumstance unique to this property, the property was developed the width of the property. The house, garage and septic are in a line with the width of the property. The hole behind the platform is holding him back. He would then need a retaining wall if he places it there. He will be over the crown of that hill opposite of the lakeshore.

VanKempen asked if the platform could be pushed back 10'.

Ledin replied if the platform moves back, they would most likely need to install a two foot retaining wall. Placing it in the proposed area, we can slope it and not need to install a retaining wall.

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

1. The hillside between the proposed platform and lake must be kept in a heavily vegetated grass cover.

Grob 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? Being located on the back slope of the hillside produces zero run-off to the lake.

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

Yes (X) No ()

Why or why not? The location requested is the most logical area for the platform. Denial would deprive them of reasonable use of a lake front platform with a fire-pit.

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

Yes (X) No ()

Why or why not? Platform fits the linear development pattern of the lot and the depression north of the setback prevents moving if further back.

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 previous landowner developed the property.

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

Yes (X) No ()

Why or why not? A lakeside fire pit platform will maintain the recreational character of the area.

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 passed 3 – 1 with Krueger voting nay.

Miscellaneous: Grob will be absent for June lot viewal.

Communications: Buitenwerf noted we have a normal sized June Agenda, at the present time, with mainly variance applications for the Board of Adjustment.

As far as the Planning Commission, the Sign Ordinance activity having to do with the practical difficulty standards that we went through today prompted Scott Anderson and I to look into all of the other ordinance practical difficulty corresponding sections. He has

updated and revised his findings of fact and corresponding language to put into ordinances since we last did that in response to the Statute changes from the Supreme Court decision several years back. I would imagine we would be having some retooling of those. The same amendment would need to take place in the Septic Ordinance, the Shoreland Ordinance and the Subdivision Ordinance that all have similar sections. That would be one advantage to having a comprehensive County Ordinance that has all of those different ordinances in it that has various parts to it. Then you would only need one Board of Adjustment Section, one Planning Commission Section and Variance Section. If you update it once, you are done instead of touching on numerous ordinances. That will be something we try to accomplish this summer. The Findings of Fact may be altered slightly and then we will need to have a short training session in terms of how you look at those questions.

Adjournment:

VanKempen made the motion to adjourn.

Johnson seconded the motion.

The motion passed unanimously 4 – 0.

The meeting adjourned at 7:30 p.m.

Respectfully submitted,

Veronica Andres

Recording Secretary