

HUBBARD COUNTY

Planning Commission/Board of Adjustment Meeting Minutes

6:00 p.m. on Monday, September 25, 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: Acted upon at the start of the BOA meeting.

Old Business: None.

New Business:

Conditional Use Application 6-CU-17 by the Laestadian Lutheran Church: Part of Gov. Lots 2 3, 4, and 5, and part of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$, Section 1, Township 139, Range 34, Hubbard Township on Big Stony Lake, a recreational development lake. Parcel 14.01.10081. Applicant is requesting a conditional use permit per Section 401, Table 1 of the Shoreland Management Ordinance to operate a commercial planned unit development church camp use.

Neil Waaraniemi (Camp Director), 37095 Twin Lakes Road, Menahga, MN, and Nick Ylitalo, 853 Oak Avenue, Menahga, MN, presented the conditional use application. We primarily use the camp as a youth camp from June through August. There are some adult camps held at Stony Lake as well. We propose to continue to use the property as we have. We are planning on adding two bunk houses at the north end. There would also be a bath house added and renovations to the kitchen at the camp.

VanKempen noted you have been running this camp a number of decades now. Has it been primarily for children, and now you are expanding it to include adults?

Waaraniemi replied it has been primarily children, we have had some adult camps. Originally it was a confirmation camp, and it has evolved into a youth camp. Seventy percent of the camps are for youth.

Grob noted all of the existing structures meet setback requirements and the new structures will be 500' from the lake. The current shoreline is all natural except for one beach area. The use is primarily for youth camps, but occasionally there are occasional adult activities.

Krueger asked how much shoreline is there.

Grob replied approximately 2000'. On the application you show a proposed pavilion. Is that part of the conditional use permit or does it require an additional permit? Since it is on the application and we approve it, will they be free to build the pavilion any time?

Buitenwerf responded the pavilion can be constructed by permit since it meets all setbacks at any future point that the camp would have an interest in doing so, unless in the conditional use process you place a specific condition on the permit that addressed the structure. The Department would not recommend any type of condition of that nature.

Grob commented documentation shows you are licensed and inspected by the Minnesota Department of Health. Is that correct?

Ylitalo replied yes.

Grob commented you do have two septic systems that are noncompliant that have to be upgraded.

Grob asked for public comment.

Public comment was given by Darwin Baack, 22103 Cherry Lane, Park Rapids, MN. I did not receive notification of this addition to the church camp. I have been on the lake 30 years. Apparently the notification only goes out a quarter of a mile. This massive project will affect everyone that lives on Stony Lake. I was notified at 2:00 p.m. this afternoon that this project was taking place and I was kind of taken back by it. There are so many questions that have not been answered. What about the environmental impact? How many beds are they adding? How many do they have now?

Grob stated the application shows they currently have 100 beds and they are adding 60 additional beds.

Baack asked has there been an environmental impact study on the lake? Right now the lake has less than 100 cabins and is approximately a 300 acre lake.

Grob responded no, and I do not think it is required. They need to meet the setback requirements for a recreational development lake which is 100'. There are requirements on the density which they can have in each tier and they are substantially under the density in all first, second and third tiers as to what is allowed by ordinance. They are required to have compliant septic systems. They are meeting all of the requirements of our County Ordinance as far as the documentation that has been provided.

Baack asked is there a reason the entire lake was not notified since it would impact everyone? It seems as though it is coming in through the back door and nobody is aware of it.

Grob replied the documentation that I have lists the various people that have been notified.

Baack remarked I understand the adjacent owners being notified, but this project is impacting everyone on Stony Lake. I feel like everyone on the lake should have been notified.

Buitenwerf responded statutorily we are required as you indicated to give notice within a quarter mile radius of the subject property when there is a conditional use application. That took place as well as the agenda is posted on the Environmental Services website page. We also post notices in the legal newspaper for the County which is the Northwoods Press Newspaper. That is required to take place at least 10 days prior to the meeting so people have sufficient notice.

Baack replied I understand the policy. So your answer is no, not everyone on the lake is notified.

Buitenwerf responded they were notified through the publication of the agenda, but not individual letters.

Baack remarked they need to go on the website to find out.

Buitenwerf replied or they can see it in the legal notice section of the newspaper.

Baack commented I have talked to three or four of my neighbors and they are all opposed of it adamantly. I am opposed to it. I do not believe the lake can handle it. It is already overcrowded. I have nothing against the Laestadian Lutheran people, I am only looking at the environmental impact on the lake and what is going to do. It seems to go totally against the Hubbard County Shoreline Ordinance in trying to preserve the environment. Thank you for your time.

Public comment was given by Lyle Lehrlee, 21831 Crane Lane, Park Rapids, MN. I am concerned about the number of units and how many beds will be added. Just like the other gentleman said, I am concerned with the impact on the lake. I understand the septic system be upgraded. I am also concerned with the additional people on the lake compared to the size of the lake. I do not know how much it can handle on a big weekends. I do know that I have an immediate neighbor that was not notified. I am mainly concerned about the number of people on the lake on a busy weekend. I do not want to overcrowd the lake.

No written correspondence was submitted.

Grob closed public comment.

Grob commented during the lot viewal, the entire 2000' of shoreline is natural except for a small beach area. To my understanding, they do not beach motorized watercraft and they have one small dock. It is not a matter of loading the lake with watercraft or water-related activities.

Waaraniemi responded the only time anybody is at the water is when they are swimming at the small beach area. The bathhouse that we are adding is 500' from the shore so we are not adding anything at the lakefront.

Baack responded I would like to comment about the boats being used and beached on the property. I have seen boats on the shore. What is to stop them from doing that? There is nothing in writing that says they cannot do it.

Grob replied that would be addressed through any conditions that we would put on the conditional use permit. We would take your input under advisement at this point.

Waaraniemi commented when the members were at the property we pointed out sometimes boats have launched from the public access and come and tie up to the dock at the camp. The camp itself has no boats. We do not even have a canoe.

Krueger clarified the applicant is not requesting a variance. They are requesting a conditional use permit and they are meeting all of the criteria of the ordinance.

VanKempen commented on Tier 1, 2, and 3. To my understanding they are adding one building to Tier 2 and by ordinance they could add up to 25 structures. In Tier 3 it would be the same thing. They are adding two structures and they could add up to 25 of the same size but they are not requesting that at this time. They are only asking for a few. As far as density they are only doing 1/25th of what they possibly could. They have over 78 acres of land and over 2000' of shoreline. As far as an environmental impact, with no motorized boats, a seasonal camp being open April – October, it is not a yearlong process.

Grob read through the three following conditions proposed by Environmental Services staff.

Conditions:

1. This conditional use permit (CUP) is for the operation of the entire premises as one church camp commercial planned unit development 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. Fifty percent of the shore impact zone on the property must be preserved in its natural state. This preserved area will consist of the west 700' of SIZ on the property measured from its west boundary line shared with parcel 14.01.01600 and the east 218' of SIZ on the property measured west from its east boundary line shared with parcel 14.01.00600.
3. Access to the property shall only be via the existing driveway that ties into 209th Avenue at the southwest corner of the NW ¼ of the SW ¼ in Section 1, Township 139, Range 34.

Grob commented in anticipation with the fact and knowledge that Big Stony Lake is a small lake and fairly private, the church camp has a minimum load on the lake. Even though they are expanding by 60%, in order to maintain the level of load appropriate for the lake, I would like to propose two conditions to be considered. The first condition is no motorized watercraft are allowed to be beached or moored including lifts and buoys along the shoreline. The second condition is the shoreline is limited to only have one dock. The dock must meet either the general no permit requirements of the State, or it must

meet the general permit 2008-0401 requirements for a dock. Which means 5' wide to navigable water and a maximum of 170 sq. ft. of deck area. Those are typical of residential PUDs and private property and are consistent of what you currently have.

Waaraneimi asked what is the maximum square foot of the dock.

Grob responded the maximum platform or deck at the end of it is 170 sq. ft. The State requirements are you do not need a permit for a dock if it is 8' wide up to navigable depth, but has no platform at the end. If people want a little larger platform area, then it comes under the general permit which is 5' wide out to navigable depth with a maximum of 170 sq. ft. of deck area. I think that should address the issue of not having 15 motorized power boats, water skiers, jet skis and so forth which I think seems to be the concern of the people on the lake. I think it is consistent of what you currently do and what you indicated you intend to do in the future.

Waaraniemi responded the camp does not promote people coming there with boats, but occasionally some do come and tie up to the dock. Is it okay for them to tie up to the dock?

Grob replied yes. Under this condition, no boat lifts and no beaching of watercraft would be allowed.

Krueger clarified at this moment nothing has been voted on and decided. I would like to know what your feelings are on the proposed condition.

Ylitalo responded I have been on the Camp Board for a number of years. At times we have had two docks, one from each side. If you have a group, that would have the potential for two swimming areas. Would it be possible to allow two docks? If people come to the camp and bring their own boat, we could have a limit of boats.

Grob replied to try to address the load on a small lake, with the expansion of the sleeping units, to try to maintain that, what I have proposed makes sense. I am under the impression from your documentation you do not have canoes or motorized boats. Therefore, no beaching, mooring, boat lifts or buoys or anything else and having one dock would limit to 2 or 3 boats for a weekend at the most would decrease the load on the lake.

Johnson asked is there a chance in the future that you would use a pontoon or a couple pontoons to attract member to come to the camp?

Ylitalo responded it has been a number of years since the camp has owned any boats. I suppose it would be a possibility that there could be. We definitely hear and respect the comments from the others on the lake. We want to be good neighbors. The concerns are fair when you consider the size of the group that could be there. At the same time, I think the reality is we have significantly less impact on the lake than if it was all plotted off into 50' or 100' lots with homes and sold off with everyone having a boat and dock on each property. I would just like it to be reasonable if we were to say we would like to have a pontoon or two, or at some point add a canoe or two, we may want to add a second

dock. I want to make sure we are not getting too tight of restrictions on what we maybe could do in the future.

Grob remarked you could always come back for a variance in the future if you find that it becomes something that you want to do.

Waaraneimi noted I believe when the Planning Commission was at the camp we mentioned sometimes family members will reserve the camp for a weekend when there is not an official camp happening. It is possible at that time there may be more boats than compared to when we have official camp retreats. It is our goal to be good stewards of the property. We do not want to damage the lake, the quality of the water and we want to abide by the all of the regulations that are in effect.

VanKempen said I like the suggestions, but I feel they may be a little restrictive. I think where they mention the possibility of having a couple of docks and a couple of boats it would not be excessive. Although the camp is open April through October, I take it you do not have people there every day or every weekend.

Waaraneimi responded in July and August it is pretty much someone there every day. After August, it is primarily weekends. In April and May it is primarily weekends. June through August we have people there almost every day.

Krueger commented I also agree that the proposal is too restrictive. When I think about a property owner that has 78 acres and 2000' of natural lakeshore, other properties on Stony Lake have almost no natural area on the property and they each have a dock. I think it would cause undue hardship if that type of restriction was placed on them. I agree, if they want two docks, they should have two docks and be able to put boats with motors on the docks.

Grob asked are you and VanKempen in agreement that there should be no motorized watercraft beached or moored on lifts? You are saying they should be able to have two docks that they could tie up too.

Krueger replied yes.

Grob said I would be happy if we would agree that no motorized watercraft can be beached or moored and limited to two docks with the requirements that I specified. One dock can end up being a marina. Sometimes PUDs have them lined up so they can have 6 to 12 boats by expanding their dock. That is why I was proposing the dock requirement.

VanKempen asked would that be more agreeable with you.

Ylitalo replied I think that would work well.

Grob clarified no motorized watercraft are allowed to be beached or moored. The shoreline is limited to two docks that meet the requirements that I outlined earlier.

Johannsen asked why are we treating these people with 2000' of lakeshore different than we are treating with someone with only a 100' or 200' lake lot? There is a public access

on the lake and we could all go on there and use the lake if we wanted to. Why are we treating a large group that hasn't been over abusing the lake differently than we would be treating anyone else in the room that has property on the lake?

Grob replied my answer to that is it's a small lake. It has been lightly used by the camp without a conditional use permit. They are now coming forward for a conditional use permit and asking for us to expand 60%, but retaining the very private, quiet, small amount of impact to the lake which I think is a reasonable trade-off to expanding the previous use that they have. We are stating this as we are expected to memorialize things that are consistent with what we want to do.

Johnson noted the ordinance allows them to have 14 permanent watercraft slips. If anybody else was there, they could have 14 slips. You are wanting to restrict that. I am not in favor of that kind of restriction from what the ordinance allows because historically they have shown how they use the lake.

Grob remarked information from the training class we attended noted verbiage of what they intend does not mean that they won't so we need to establish what we think ought to be the conditions to maintain the situation with the lake instead of leaving it wide open. I am trying to look out for the people on the lake. I think if we were talking in terms of 14 slips, there would be much larger contingent from the lake. They are used to the serene conditions.

Baack commented there are less than 100 cabins on the lake. We are talking 160 beds on one piece of property is twice the size of the entire population of the lake. You need to take that into consideration.

Grob asked what the acreage of the lake is?

Baack replied I believe it is 325 acres.

Grob stated I proposed two conditions and we need to call a vote as to whether we should place those conditions on the application.

Petersen responded I would to not approve those conditions.

VanKempen commented I do like the idea of having some kind of control as to what I suggested as two docks and two boats per dock. I am hoping we can find some kind of happy medium here. At this point, I am not sure that I would even vote for my own proposal. We need to have more discussion and come up with a better consensus.

Krueger commented there needs to be some type of cap, but at this point it is too restrictive. I would like to have more input from the applicant and see what they visualize the camp doing and needing in the future.

Waaraneimi responded we do not have any intention of buying boats or owning boats at the camp. I think the condition with two docks and tying up no more than two boats per dock would be fine with us. It seems to me to be more than we need. During camps I would not want to see boats there because there will be kids there.

Krueger commented if that is what the owners want, then that is what I would approve.

Grob remarked my premise was based on their application and the comments that they made.

Peterson clarified if the applicants find the two conditions acceptable, then I would vote yes.

VanKempen asked Buitenwerf, if in the future the applicant finds the condition is too restrictive, how would we get that changed?

Buitenwerf responded the process would be to apply to amend that condition of the permit. As Tim indicated, the Ordinance does allow them up to 14 permanent watercraft slips. Staff would not be in favor of limiting them to less than what the Ordinance allows them to have. There has not been a motion on the floor. This is still the discussion phase.

Krueger remarked they can always come back and modify.

Grob 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.

1. This conditional use permit (CUP) is for the operation of the entire premises as one church camp commercial planned unit development 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. Fifty percent of the shore impact zone on the property must be preserved in its measured from its west boundary line shared with parcel 14.01.01600 and the east 218' of SIZ on the property measured west from its east boundary line shared with parcel 14.01.00600.
3. Access to the property shall only be via the existing driveway that ties into 209th Avenue at the southwest corner of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ in Section 1, Township 39, Range 34.
4. No motorized watercraft are allowed to be beached or moored with lifts or buoys on the shoreline.
5. Only two docks allowed that meet the general requirements with a State General Permit 2008-0041.

Petersen 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 commercial planned unit development conditional use category in the ordinance. This use has existed on this property in largely its present form since the late 1970s without the County having received any complaints about it. The use will not have any docks or watercraft slips in the lake. All primary structures on the camp meet or exceed the 100' ordinary high water mark setback. The area between the structures and lake is well vegetated and includes dense mature trees that effectively screen the structures from the lake. Access to the property is via $\frac{3}{4}$ of a mile of gravel township road that has three residences on it before the township road ties into paved County Highway 17. Roughly 1600' of shoreline west of the camp is undeveloped and there are only two residences in the adjoining quarter mile to the east.

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 proposed expansion will consist of one new unit in Tier 2 and two new units in Tier 3. These improvements will be a significant distance from the lake and any stormwater generated by them will be easily handled by the sandy, gently sloping soils between them and the lake. Existing camp structures meet the 100' ordinary high water mark structure setback and the area between the structures and the lake is heavily vegetated/wooded.

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 proposed expansion will occur in Tiers 2 and 3 and be at least 500' from the lake. The new improvements will not alter the existing topography, but rather be placed in a way that works with it. Small areas will be cleared where the new structures will be placed, but the surrounding area will remain heavily wooded. Stormwater drainage due to the additional structures should not increase to a level that will exceed what the property can accommodate.

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 existing Tier 1 structures sit roughly 10' above the lake level and the proposed Tier 2 and 3 structures

will be at least 20' above the lake level. These elevations, along with the sandy soils on the property and surrounding area, suggest there will not be any flooding potential on the property.

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 property gently slopes toward the lake from north to south. The proposed new structures will be located at least 500' from the shoreline and the existing forested vegetation between the building sites and lake will remain and serve as an effective buffer to guard against any erosion and mitigate any stormwater generated by the new structures and accompanying impervious surface improvements such as driveways and vehicle parking areas.

6. Is the site in harmony with existing and proposed access roads? Yes (X) No ()

Why or why not?

The property is accessed by a driveway that enters onto 209th Avenue which is a north-south running gravel township road. There are three residences to the north of this approach before reaching County Highway 17 that serves as the main road used to reach 209th Avenue. There should not be any dust-related issues on 209th Avenue as one quarter mile has a farm field on the west and forest on the east and there is fairly dense forested vegetation between the sole residence on the east side of the road (leeward side) that should filter any dust. This approach has been in use by the camp since the late 1970s without any issues having arisen or complaints having been raised by surrounding landowners. There are trees on both sides of the driveway and the last ½ mile of the ¾ mile driveway lies entirely in the middle of the camp property and is buffered on both sides by considerable forested vegetation that will filter any vehicle noise and dust.

7. Is the requested use compatible with adjacent land uses? Yes (X) No ()

Why or why not?

The area is a mixture of agricultural, residential, and forested uses. The forty acres to the west of the camp is 90% forested and 10% agricultural field. The forty to the northwest of the camp is part of a large agricultural field. The land to the north and NW of the camp is forested. There are two residences in the ¼ mile east of the camp and three undeveloped lots to the SW of the camp along the lake. The camp has existed in this location since the late 1970s without any identified issues having been raised concerning its compatibility or lack thereof with surrounding uses.

8. Does the requested use have a reasonable need to be in a shoreland location?
Yes (X) No ()

Why or why not?

A church camp is a typical use seen on riparian lots in the County's shoreland areas as campers frequent the lake for swimming and fishing purposes along with other recreational activities such as enjoying the view afforded by the lake.

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? Two of the septic systems are compliant. Two other systems are noncompliant and will be upgraded yet this year. Septic system designs are on file with and have been approved by the Env. Services Department for the additional system that will service the proposed new bathhouse in Tier 3. There is ample room and suitable soil types for the installation of replacement septic systems if/when the need for such ever arises.

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? The existing structures comply with the 100' OHW setback and the proposed new structures will be located at least 500' from the OHW. There is dense forested vegetation between the structures and lake so they are not hardly visible by parties on the lake and thus the Section's provisions are being met.

11. Is the site adequate for water supply and on-site sewage treatment systems?
Yes (X) No ()

Why or why not? The camp consists of nearly 80 acres. The water supply has been in place for several decades and is working satisfactorily. The existing septic systems are ½ compliant and ½ non-compliant with the latter planned to be upgraded yet this year. The new septic system proposed to service the new bunkhouses and bathhouse has been approved by the Env. Services Department. The soil on the site is sandy and conducive to in-ground systems.

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 camp's application states that it does not have any docks or watercraft slips. Rather, the camp only uses the lake for swimming and fishing.

The motion carried unanimously 5– 0.

Board of Adjustment:

Approval of Minutes: August 28, 2017 meeting.

Johnson made a motion to approve the Planning Commission meeting and the Board of Adjustment meeting minutes with the addition of the answer to # 12 of the Findings of Fact on Variance Application 34-V-17 by Tom and Cindy Brussell.

Findings of Fact:

12. Are there other similar structures in the neighborhood? Yes. The shoreline consists of residential structures with lakeside decks.

VanKempen seconded the motion that carried unanimously 5 - 0.

Old Business: None.

New Business:

Variance Application 36-V-17 by Todd and LoRae Benson: Part of Gov. Lot 3, Section 3, Township 145, Range 32, Farden Township on Grace Lake, a recreational development lake. Parcel 07.03.01800. Part 1: Applicants are requesting a variance from Section 506 of the Shoreland Management Ordinance for a proposed guest cottage that will exceed the maximum allowed 700 square feet footprint. Part 2: Applicants are requesting a variance from Section 904.6 of the Shoreland Management Ordinance to exceed the 25% impervious surface area threshold on the lot.

Todd and LoRae Benson, 50111 White Cap Drive, Bemidji, MN, presented the variance application. We are looking to do a variance for a garage with living quarters. I made many calls to Laird Hensel prior to purchasing the property to be sure that we could do what we wanted to do. We built two separate additions. We actually remodeled and then added the additional 50%, which was actually a cement slab that we squared off. At that time we wanted a loft, but looking at the variance we did not try. We did some remodeling and removed some cement. We took out a shed permit, did some cement work on the lake side of the retaining wall. Apparently there was only one record of some of the work. I know Rick Kozel was working with Scott Navartil on the cement and the two structures that we removed. Scott Navartil is no longer working in the office. Long story short, I cannot add anything larger than a 7' door to the garage. The garage does not accommodate our boat. We are not wanting to increase the footprint of the structure, we are only wanting to go up. At the same time we are wanting to put in living quarters. We are wanting to accommodate additional people in the summer. We are requesting a variance to accommodate sleeping quarters above the garage.

LoRae Benson commented the original footprint of the garage is 768 sq. ft. We are not increasing it.

VanKempen asked how long have you owned the property?

Benson replied since 2006.

VanKempen noted in the application you stated you were looking into purchasing some adjacent land.

Benson responded yes. We were over the impervious surface when we purchased the lot. I am hope we have been good stewards of the land. We are making it better with each of our moves and increasing the value. We do not own the ditch area. We have approached the neighbors about purchasing some land. There is nothing that can be developed. If it was within reason price we would certainly do that. We are currently looking at purchasing some of the lot behind us and to the south.

VanKempen asked do you know what your current lot size is?

Benson replied .30 acres. It is 45' x 112'.

VanKempen commented with the purchase you could be doubling your lot.

Benson responded it could be roughly increase 50%.

Grob asked if the current lot, including the garage, is 45' wide?

Benson replied yes.

Grob noted the current garage is in good condition. This is not a matter of you needing to replace the garage.

Benson responded correct. We just cannot increase to a larger door.

Krueger remarked upon approval, it would be 50% over the 25% impervious surface. Currently they are at 37% impervious surface. To me that is a significant amount to be over.

Benson responded I would hope that it was reflected that we have taken more out than we have added. Removing the two structures and removing the cement that went directly to the dock and boathouse.

VanKempen noted that Whitecap Drive is included in the calculation of the impervious surface.

Grob commented with the change in the Shoreland Management Ordinance to allow guest cottages, we have been trying to hold a very hard line. We are making sure the properties we approve meet the requirements. On several occasions we have been very tight in holding that. In this case the lot is 45' wide verses 150', it is 16,000 sq. ft. verses 40,000 sq. ft., and the guest cabin would be oversized. The size of the lot is very restrictive and it should not be the criteria to allow you to build a guest cabin when the impervious surface and the other conditions are not even marginal. They are very extreme.

Grob asked for public comment.

No public comment was given.

Written correspondence was received by Vincent J. Thomas, 29227 Whitecap Trail, and Bemidji, MN, opposed to the variance application.

Grob closed public comment.

VanKempen commented the lot is limited in size. The Shoreland Management Ordinance wants 150' in width and the lot is 45'. Size requirement is 40,000 sq. ft. and you have 14,000 sq. ft. Since the State has been allowing guest cottages, we have been getting requests every month. We have been fairly consistent at sticking to the 700 sq. ft.

Benson asked do I have any options? First it started with the garage. We do have a camper there, but essentially we are doing the same thing as if we had the living quarters upstairs. We are still accommodating more people than a two bedroom cabin six or seven times during the summer. The only reason we applied for the variance in regards to being over 700 sq. ft. is because that is the footprint of the cabin. Will I ever be able to build a garage that will accommodate my boat? Do I have to go through the variance process again to expand the garage?

Buitenwerf replied it will depend on what the Board would do tonight with the impervious surface component to the application if that would be approved in manner that would allow additional expansion of impervious area. Potentially yes, the garage could be built larger than it currently is through permit. If the Board would deny the impervious surface request this evening, then it would still be an issue for future expansions of impervious surface on the lot. A new variance would be needed if and when the garage was desired to be expanded. Unless impervious surface elsewhere on the lot was removed, it would then bring the property into compliance with the 25% threshold.

VanKempen remarked if they were able to purchase the adjacent property, would that help them?

Buitenwerf responded it could potentially if the purchase of the land was made a part of the current lot.

VanKempen asked can he rebuild another garage with the same square footage that he currently has?

Benson responded I do not want to build a larger garage, I just want to be able to utilize an 8' or 9' garage door to accommodate the boat.

LoRae Benson clarified there can be no living quarters, is that correct?

VanKempen responded correct.

Grob asked what are you proposing to do different with the garage?

Benson responded with the header I cannot go up another foot to get the boat in and I only have an inch or more on each side. At this time, I have to pay Bemidji Marine to store the boat. The whole gist of the deal was if we are going to rebuild, then we should add living quarters. I believe Eric can attest, everything we have done to the lot, I have always come to you guys first. I called Laird four times before we bought the property to see what we could do.

Grob asked how high is the header?

Benson responded it's a 7' door.

Grob asked Buitenwerf if he could rebuild the garage with the same footprint and a little higher?

Benson asked could I go to 25'?

Buitenwerf responded yes, it could be done by permit. We still need to address the impervious surface area issue through some other means by reducing impervious surface elsewhere on the lot. That is still an item that needs to be dealt with.

Benson replied before I do anything?

Buitenwerf replied correct.

Grob clarified the applicant is in conflict with the impervious surface. Is what's in front of us having to deal with making them reduce that?

Buitenwerf responded no. The request before you is to allow the existing impervious to remain and be approved of. If that aspect of the application is denied, then they would have to remove impervious surface to bring the property into compliance at the 25% threshold.

Benson replied that is roughly 1700 sq. ft. Is that correct?

Buitenwerf responded the solution would be to acquire additional property to give you more lot area or the reduction of approximately 2100 sq. ft.

Grob noted a guest cabin is not doable on this lot. We may want to entertain the possibility of allowing the current impervious surface conditions to exist. We need to split this into two motions and two findings of fact.

Buitenwerf responded correct.

Grob asked what are the thoughts to the amount of impervious surface.

Krueger asked if the 25% impervious surface threshold exceeded after the 2008 variance?

Buitenwerf replied yes.

Krueger asked was it at 25% or below prior to that?

Buitenwerf responded I cannot say with certainty, but paving of the driveway since the 2008 variance would be the primary contributor to that. The rock area to the fire pit on the back side of the cabin, and the walkway to the lakeside platform on the beach was added. That is another item that we are working on dealing with as portions of it are wider than the 4' maximum width that is allowed for a sidewalk.

Benson responded that goes back to whatever happened with Rich working with Scott. We did take out more impervious space with the two sheds. It is not documented anywhere. I was working with staff trying to get documentation on these items. Back when Ken Berge did have the out buildings identified back in 2012. We did resurface the driveway. It was not tarred before, but is it a normal driveway just like on Whitecap Drive.

LoRae Benson commented Laird told us to wait until the end when we are finished with everything to resurface it.

Benson noted if you look at Whitecap Drive on Google Earth, it essentially is the same driveway. I am surprised to the fact that is more than what we had back in 2008.

Grob noted the paver area in the front, the short distance of 8' or 10' is a little bit oversized. A 4' wide walkway would be allowed there. Is that correct?

Buitenwerf responded correct. That is assuming compliance with the impervious surface threshold.

Grob stated when someone is allowed a 4' walkway to the lake, that implies that they are meeting the impervious surface overall.

Buitenwerf replied correct.

Grob commented one observation I made during the lot viewal was from a stormwater runoff situation was everything from the house runs back towards the road. The impervious surface on the back side does not add runoff to the lake. Even though they are over impervious surface, they are not adding much to the lake. The conditions that are there are kind of natural. Was the stone all added?

Benson responded no, it was reinforced. Rick worked with Scott and he was surprised that none of the work was on record. I wish there was documentation as to what it looked

like prior because there was a boathouse, cement all the way down to the dock, and a permanent fire pit.

Grob remarked the wall is not adding a lot of impervious surface, it is only a little bit of walkway and the rest is sand.

Benson replied there used to be full-size driveway on the north side of the lot that came out to the dock and across the front to the boathouse that was in front of the tree. We really did not add impervious surface when we built onto the cabin.

Grob asked Buitenwerf if we were to deny Part 1 and Part 2 of the variance, would the initiative of the ESO require them to remove 2000 sq. ft. of impervious surface?

Buitenwerf responded yes, unless we have something different than what we currently have for information as far as the status of the property in regards to its impervious surface area.

Grob noted half of the overage is dictated by the conditions of the fact that there is a road that runs through the property. It appears 895 sq. ft. is the road, of the 2000 sq. ft. that they are over. Twenty five percent of the impervious surface area is 4138 sq. ft. and your calculation states that they have 6235 sq. ft., including the 895 sq. ft. of the driveway.

VanKempen asked did the driveway use to be a gravel drive and not paved?

Benson responded yes.

Buitenwerf clarified gravel surface would be considered impervious surface by the Ordinance. The photo on the screen is what we have prior to the asphalt being applied.

Grob asked what was the surface material before?

Benson responded gravel.

Krueger asked Buitenwerf if the impervious calculation can be removed since it was a gravel driveway.

Buitenwerf responded no. It still counts as impervious surface.

Grob remarked my thought would be to deny the variance and push them back to the 4000 sq. ft. impervious surface mark. You almost cannot get back to that number.

Buitenwerf responded I have not sat down and calculated the numbers to see what exactly would need to be removed to meet the number.

Benson commented I do not honestly believe that we added impervious surface since we bought the property. Had Rick's paperwork been documented with Scott, would it have meant impervious?

Buitenwerf replied it would have been considered impervious. I was able to reach out to Scott Navartil and he did not recall specific conversations, but he indicated that type of a surface he did not feel that he would have ever informed anyone that it would be viewed as a pervious surface.

VanKempen noted I did some quick calculations with the cabin, slab, driveway and the garage and with those four items I came up with 4380 sq. ft. Even if you took out everything, you will still be over the impervious surface. It would be hard to get within the threshold without removing the road and everything else. I see where Grob is going with this, I'm just not sure how we can get around it.

Grob commented we need to split the two because the impervious surface situation being predominant. The impervious surface control is to protect runoff to the lake. It is apparent the impervious surface is not affecting the lake. It is all behind the house, it is the road and the driveway. I made specific note that the whole contour goes up to the front of the house and then drops off a little in the front. I do not see that stormwater is affecting the lake. Requiring them to do something different to make up the impervious surface would be difficult to do. I am inclined to propose to the Board that we separate the two parts and vote on each one.

VanKempen asked if the house has gutters.

Benson responded yes, on the back side.

Grob asked would you be willing to place a gutter on if needed?

Benson replied certainly. On the backside of the fireplace there is a section that would run into the neighbor.

Grob stated I would entertain a motion on Part 1 of the application regarding a guest cottage that exceeds the 700 sq. ft. as intended to be placed on top of the garage.

VanKempen made a motion to deny Part 1 of the variance application as presented and adopt the staff report findings of fact with removing the impervious surface references.

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 () No (X)

Why or why not? The lot is less than half the required size and less than 1/3 the required width in order to have a guest cottage.

2. Without the variance, is the owner deprived of a reasonable use of the property?
Yes () No (X)

Why or why not? There is a residential structure, outdoor fire pit/platform area, and detached garage on the lot – all of which provide reasonable uses of the property. The lot can also be used to enjoy the outdoors and access the lake for recreational purposes – which are also reasonable property uses.

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

Why or why not? There are several lots on this side of the lake that are substandard in size in terms of area and lot width (with 60' widths being the average) and all the lots in this neighborhood have Whitecap Drive running through them and thus affecting their impervious surface area percentages.

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

Why or why not? It is the landowner's desire to reuse the existing garage's foundation for the proposed new garage/guest cottage that creates the alleged difficulty in complying with the 700 sq. ft. guest cottage footprint threshold.

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

Why or why not? During the lot viewal none of the neighbors had guest cabins.

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.

Grob made a motion to approve Part 2 of the variance application to exceed the 25% impervious surface threshold with the existing situation and cannot add to the impervious surface.

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? There are items already in existence, like the driveway. The majority of the stormwater runs away from the lake.

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

Yes (X) No ()

Why or why not? To meet the 25% impervious surface would require removal of the driveway which is a reasonable use.

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

Yes (X) No ()

Why or why not? The lot is substandard in size. It is reasonable to want a home with a driveway and garage. The lot is excessively small to allow those and meet the impervious surface.

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 was developed before they became the owners. The house and driveway were put in and 895 sq. ft. of the impervious surface is the road White Cap Drive.

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

Yes (X) No ()

Why or why not? The adjacent properties are in similar situations. Small lots that are very close to the impervious surface 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 carried unanimously 5 – 0.

Miscellaneous:

Communications:

Adjournment:

VanKempen made the motion to adjourn.

Petersen seconded the motion.

The motion passed unanimously 5 – 0.

The meeting adjourned at 7:55 p.m.

Respectfully submitted,

Veronica Andres

Recording Secretary