

HUBBARD COUNTY

Planning Commission/Board of Adjustment Meeting Minutes

6:00 p.m. on Monday, April 26, 2021

The Hubbard County Planning Commission/Board of Adjustment (PC/BOA) held its regular public hearing and meeting on Monday, April 26, 2021 at 6:00 p.m. remotely by electronic means with one or more PC/BOA members present in the Hubbard County Government Center – County Board Room # 324.

Chairman Mike Kovacovich opened the meeting with the following additional members present: Ken Grob, Veronica Andres, Tim Johnson, and Mark Petersen. Also present were Environmental Services Director Eric Buitenwerf and ex-officio Planning Commission member and County Board Vice-Chair Ted Van Kempen.

Kovacovich 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: March 22, 2021 and March 23, 2021

Andres made a motion to approve the minutes as presented.

Grob seconded the motion that carried unanimously 5 – 0.

Old Business:

[Conditional Use Amendment Application 2-CU-20 by Green Pine Villas Owners Association, Inc.](#) Common Interest Community No. 25, Green Pine Villas, Section 20, Township 141, Range 34, Lake Emma Township on Potato Lake, a recreational development lake. Parcel ID 16.44.91200. Applicant is requesting to amend Conditions 2 and 8 of Conditional Use Permit 1-CU-09.

Steve Peloquin, authorized agent for the applicants, 602 Pleasant Ave. Park Rapids, presented the application.

Peloquin stated this matter has been continued from the September meeting. At that time the applicants applied to amend Condition 8 of the CUP. Condition 8 prohibited any new accessory structures. At that time, as I understand it, there had been the beginning of a pad scraped for an additional building to the rear of the cabins that comprised the planned unit development, which was formerly a resort. After that the Commission met and viewed the premises. There were four other additional sheds attached to four of the cabins that partially comprised that PUD. In addition, there were also some deck/platforms that were attached to the cabins, which violated Condition 2 of the conditional use permit. At that time an amended application was made to amend Condition 2 to allow the existing decks, which were on three cabins, and then to also potentially allow the platforms. As I understand it, the platforms have been permitted as after-the-fact permits. In addition to that, up in front of you right now, I submitted a letter today which I do not want to have delay the decision making process of the Board since you got it at a very late time today. Unless you want to consider it, we would withdraw it. We do not want to allow this letter to table the motion any further. We just need a decision. There are two issues in front of this Board. One is to amend Condition 8, which would allow the exiting 8' x 8' sheds to exist and would also allow them to build a new

accessory structure. You have considered this at your previous meeting, at least as far as the 28' x 40' shed. Yes, it is an after-the-fact application, but these folks did not know that they were required to do this. It was not an intentional deviation from the procedural requisites there. A permit had been issued for a small shed on one of the cabins, and I think they took that as a green light to go ahead and construct the other ones. The cabins, as they exist now, are resort cabins and have no storage. Some of the people that own those cabins are older, some are handicapped, and need to store assistive equipment to get in and out or to actually reside in the cabins. The current storage is a maintenance shed that is located at the rear of the area, distant from the cabins. The cabins are small, they are tucked behind and out of the way of the shoreland setback requirement except for one, which will be moved. Also, I think there was a violation of a mowing restriction, and they have agreed that they won't mow that anymore. If we consider this as if it were a new CUP, it meets with the neighborhood consistency with the aesthetics. The footprints of these small storage sheds are consistent with the size of the cabins and otherwise conform to the setback requirements. The open space, which is such an important part of a PUD, will not be greatly affected either by the storage sheds as they now exist, or for the larger one which sits well back. There is plenty of open space left, well in excess of 50%. As I understand it, there is area for a new septic system if necessary in the future. Those are my comments as far as the accessory units are concerned. Obviously, that violates the requirement of no new buildings, but in this particular case we have to bring some adjustments or consideration for the very limited storage that was present when these units were developed and these folks later bought these units. With regard to Condition 2, which is the decks/platforms, the decks are consistent with the footprint of the cabin. They are unobtrusive. They are not unusually large or obnoxious. They are consistent with safe entry and exit to those cabins. The platforms, which at least one of which I know has been allowed, are very similar to the decks except they didn't have railings. I think one or two of the decks were several inches higher than the 3' minimum. Given the terrain that is involved, this was a good solution at the time for safe entry and exit to the cabins. At least one of the cabins has a person suffering a disability which makes it hard to get in and out of the cabin. It obviated the need for steps into the cabins and was a good solution for the aesthetics. It also allowed for the area around the cabins to not be disturbed and not invite erosion, which is one of the objects of any PUD development. With regard to that, the other thing that is important is that these decks also have railings which is very important for safety. For that reason, and even given the fact that this PUD was developed with very restrictive covenants which do present some severe impediments to the use of these as recreational residences, we ask the Board to look at what they have done and how they have done it, and recognize the aesthetic consistency and the safety that they brought to this in terms of building these structures. We ask for consideration of amendment of these two conditions for the reasons stated.

Kovacovich stated I want to make sure that we are clear on everything. Would you list the cabin numbers that are requesting either storage sheds or decks?

Peloquin replied with regard to Condition 8, the sheds, those are Cabins 1, 5, 6, and 9. The decks were Cabin 5, 6, and 7. There were also violations noted on platforms, but Buitenwerf can maybe add what has changed since the initial application.

Kovacovich said Buitenwerf if you want to respond to that, I believe the answer is that the CUP agreement addressed decks, but it did not address ground level platforms, and so those can be permitted, is that correct?

Buitenwerf explained that is correct. I believe three of the four platforms that were in need of after-the-fact permits have obtained those.

Kovacovich asked do the Board members have a preference for how we go forward with addressing these issues? If not, I would suggest that we go through the sheds first, then the decks, and lastly

the 28' x 40' storage building. When it comes to the Cabin 9 shed, that is the ADA request, as is the Cabin 7 deck.

Grob asked the platforms are not prevented by Condition 2 or Condition 8? The platforms could, in fact, be permitted?

Kovacovich replied that is correct.

Discussion ensued about which cabins had violations.

Kovacovich asked is the Board okay with hearing the Cabin 9 shed tonight, even though that letter was turned in today? I am fine with going ahead with it, but it depends on what the Board wants to do.

The Commission agrees.

Kovacovich asked how many bedrooms does Cabin 9 have?

Peloquin replied it is my understanding that it was just one room. Kay Lloyd, can you speak to that please?

Lloyd responded Cabin 9 has a pointed roof, and the upstairs is just a large open loft with beds in it. There might be a small bedroom on the first floor. The owner has multiple sclerosis. I can't imagine her going up those steps to the loft.

Buitenwerf explained to the question of the platforms, it is Unit 2 that has not yet obtained an after-the-fact permit.

Grob asked Unit 3 has?

Buitenwerf stated all of them but Unit 2.

Andres asked do we have the owners of Unit 2 available to ask why they have not checked into the after-the-fact permit for the platform?

Peloquin replied I don't know, if they are out there they need to speak up now.

Grob stated the platforms on Units 2 and 3 are basically integrated together because the two cabins are very close to each other. It is just one continuous platform.

Peloquin answered I believe they are not here.

Lloyd added there is a sidewalk in front of Cabins 2 and 3, and then they have their little entry area hooking onto that sidewalk.

Grob asked are we limiting our questions right now just to the sheds and decks, or general ones for the whole application?

Kovacovich answered you can address any questions that you want at this point.

Grob asked the maintenance building that has been there since the beginning of the conditional use permit, besides a lawnmower, what is stored in there?

Peloquin replied I asked that question and the answer that I got was that it contains a couple of four-wheelers, a jet ski or two, maybe a boat, some household goods, and tools to maintain the grounds. When I asked if it was full, the answer was yes.

Grob continued the key is that it is being used as a storage shed for equipment other than just to maintain the lawn or maintain buildings. It is actually being used as a storage shed to some greater degree. The area that has already been graded, where they want to put up a storage building, that was originally allocated as possible additional drainfield. Has the work that has been done at this point totally negated that as a possible drainfield, even with a sand mound, or could it be still used as a drainfield if it was no further disturbed?

Johnson answered I think that it could be used as a septic system site.

Grob clarified so it still could be used for that. This is very involved. There are after-the-fact permits for several things, there are a couple disability act situations. I was very active as part of the Potato Lake Association when the original conditional use permit was developed. I want to bring a perspective on what the Lake Association's involvement and position was when this was taking place. The Lake Association, at that point, was involved in four conditional use permits and conservation easements on the lake. They had some unpleasant experience with one conditional use permit where there were immediate violations and changes. The current one, although it was a good set-up with good setback on the cabins, it was way over density. The Lake Association originally was not in favor of it, but after multiple discussions with the current owners and with LeSage, we tried to work out a compromise that would allow for that to go forward, but at the same time meet requirements. The main thing that we can't lose sight of is the fact that it was very important in those discussions that we have some very tight conditions in terms of expansion and additions because of past experiences and what typically would happen. Now, in perspective, those were conditions 13 years ago. The concern was what might happen in the future, and therefore we wanted to make sure there were some tight conditions. When I look at it today, if we were clairvoyant enough to know what things would look like 13 years later, I think that the current platforms are all nicely done. Modest changes consistent with the original conditions of the property. If I could have seen then what I see today, I would personally not see an issue with the platforms that were placed on the property. Looking at the decks that were added, they were modest, within the sidewalk areas. Those are small decks. Personally, if I could have seen that 13 years ago, I think I would have been willing to add those to the conditional use permit. We were trying to prevent unnecessary expansion and more density at the same time. Now when you look back, all the changes that I observed on the platforms and the decks, I am quite certain we would have approved them back at the time when this conditional use permit was being developed. At least we would have been supportive of it as the Lake Association. I don't know what the County Commissioners would have done. As far as the sheds are concerned, they are somewhat problematic to me. But, on the other hand I recognize that these cabins have very little storage space and it is important to keep the grounds nice and clean, which I think the applicants are doing. I would be supportive of allowing the storage sheds of the current size, condition, and location because, I believe, if they were available and we could have seen it 13 years ago, the group would have been supportive of it as far as the conditional use permit. I would go on record as saying the current after-the-fact application for the sheds on Units 1, 5, 6, and 9, the decks for Units 5, 6, and 7, and the platforms on Units 1, 2, 3, and 8, and I think Unit 9, I would be supportive of all of those as reasonable and consistent with what was trying to be accomplished back in 2009 when this conditional use permit was being put in place.

Andres asked Johnson can you please be more specific on the septic area? I believe in the October meeting minutes that you mentioned it could not be used for a standard site area anymore once it has been graded like that, so it is only good for an experimental site now?

Johnson replied that is correct. The site can be used for septic. Obviously, it wouldn't be the first choice now, but it could be used for a septic site. I have a question for Grob. If every other owner was able to do what has already been done, putting in storage sheds, would you be okay with that? Can they put in any more sheds? Is there any more room to put in storage sheds?

Grob responded that is a good question. Other than Unit 4, which is in the shore impact zone, and Unit 11, which is the old lodge and probably has storage space, I was considering allowing a storage shed no bigger than 64 sq. ft. to be allowed for all the other units. Since the application didn't ask for it, I didn't propose it. I would be amenable to it only if we deny the new larger storage building. I think the maintenance building provides some storage. If we do not allow that larger storage building, I would support up to a 64 sq. ft. and 8' high storage shed that could be added to all of the other units except for Unit 11 and 4.

Grob asked Lloyd what is the general sense of the other people who have cabins and have not put up sheds? Do they not think that they need them, or they haven't thought about them yet? What is your perspective on the ones that do not have sheds at this point?

Lloyd responded the people who do not have individual sheds would like to use the storage in the large building that we proposed. That was how it came about.

Grob asked if we deny that because we need that for future drainfield, you would feel that these other cabin owners would, in fact, desire a small storage shed?

Lloyd answered no. The problem is that the ground is sloping for many of those cabins and several of them have the road right behind their cabin. There is not much space for a shed and there is a sloping hillside right behind Unit 7. Many of those people preferred to walk to the back area and keep it away from their cabin.

Grob continued those people could use that current maintenance building. There are commercial storage units where ATVs and boats could be stored so that there would be space to cover those people if you say the terrain does not accommodate a shed.

Lloyd replied we already have trailers that we have to try to put back on our additional land that is across Green Pines Road. We try to keep things out of the way from the lakefront. The people who have the ATVs and these other items, this current storage, the maintenance building is full. These people use these things. Children go up there and get the large blow-up lake accessories that we don't keep on the beach. We have a rule that you cannot leave that stuff on the beach. People clean it up every night and take it up to the shed. I think because we have had such a focus on keeping our area pristine because it is a beautiful area. People have been vigilant at taking things at night up away from the common area and up into the storage shed. Obviously, they would prefer to have the access of a storage shed on the property rather than getting in their car and driving to some other storage unit.

Grob stated there are a lot of people who have private residence cabins who have that same issue and have to rent storage units. I put myself in that same category.

Andres asked Lloyd you just mentioned that you have area across Green Pines Road that you park trailers on, how large is that area?

Lloyd replied we had a new comprehensive site plan prepared by a firm in Walker that should be filed there from February this year. I can't tell you exactly, it is absolutely full with our boat trailers when people have their boats in. It is not that large.

Andres continued I just didn't know if that was a possibility for a building there.

Peloquin added there was some discussion of the Board members about the septic back-up area. Is the current area where the soil was graded and restored the only area where that is possible, or where there other areas available? If that area was shrunk, would that accommodate the requirement for the septic area?

Johnson answered all of that site across there I would consider for future septic over any storage building.

Petersen asked Johnson are you saying that all the vacant land back there would be necessary to keep available?

Johnson replied for the amount of people that are on that shoreline, and the amount of water used, I believe that entire site should be saved for septic system, in my opinion.

Kovacovich opened for public comment.

No public comment was given.

Kovacovich closed public comment.

Grob asked Lloyd if we were to allow sheds up to 8' x 8' for all the other units, is it impossible? Unit 10 must have room there. Unit 9 has one. Is it impossible, or just that it would have to be put on blocks to level it?

Lloyd replied you would have to dig into the eastern hillside to make a level shed there because of the terrain, and the road is right there. We would have to dig out on the eastern side for Units 7 and 8. Unit 6 has one, but theirs is sitting up high. I think that everyone liked the fact that we would have the common storage because that is what we have already used, and the owners are used to that. That is what we had voted on in our meeting. People wanted another common storage area since this one was full that we have. The individual people were not planning to dig into the hillside, and I don't think that anyone would want us to dig into the hillside. Erosion is something that we always worry about. We discussed it at our meetings and that is what people voted for.

Grob continued some of your constraints are not unusual even for private residence lots. I think people have to understand the nature of the beast here is that, back when this planned unit development was initiated, I think 4 or 5 was the maximum number of units. This is very compact and over density. The outcome of that is that the people who bought these, and I would have to imagine that they clearly understood the covenants, they are going to have to find alternatives to storage as a result of the approval of the density that is there. I realize what people want to do, but it is a fact of life that allowing 11 Units to remain here doesn't mean that we now have to change everything to accommodate what people want. That is what people opted for when they bought them.

Andres commented I understand Grob's thoughts, but as mentioned in the staff report, this properties existing dwelling unit is 175% over the density allowed. They knew that at the time. That was one of those situations where they agreed upon this in order to approve it when they created the PUD. I have a hard time because they specifically knew by agreeing to this that there were not expansions of any sort, any structures or additions. I am having a hard time personally approving the structure part.

Kovacovich stated I would concur with Andres. It is buyer beware. The buyers should have known the covenants in place and that what they see is it, they are allowed no more. I am having a hard time reconciling with the density of this particular development. Why would we make it more dense by approving their structures? I have some specific questions on the ADA request for Unit 7. There are stairs going up to the deck. There are stairs going from the parking lot down to ground level and over to the deck. The request is for an ADA accommodation, but yet they are not asking to make the cabin ADA accessible from the parking lot. If anyone familiar with Cabin 7 could address that for me?

Bruce Woner, 5821 SW 33rd Street, Topeka, KS, owner of Cabin 7, stated my wife was a regular visitor to this property when her family would vacation in Minnesota. We are excited to be there. We try to be good stewards. Our son has a disability known as Osteogenesis Imperfecta, which is called brittle bones disease. He can step on a rock wrong and end up with a break. He has multiple fractures and multiple surgeries. Our hope is that he will never have to have ramps to take him into this, but he has to have room to move because he is regularly on crutches. That is what he has been on as we have settled into our ownership of this particular cabin. I do believe that the decks on Cabins 5, 6, and 7 are really no different than the platforms that have been approved everywhere else, it just happens that the topography requires the decks, and insurance companies require the railing that goes with those decks. The notion of allowing a 64 sq. ft. storage shed as an exchange for whether or not you grant the use permit for the storage unit that has been proposed, I think is a most worthy idea. I think that our Cabin 7 is one of the few that doesn't have the storage. I wanted to participate in the new storage, and I didn't intend to add any if we got to use that storage facility, but we would need to figure out how to cantilever the 64 sq. ft. into the arrangement in some acceptable way. I would ask your approval of that if you don't approve the other option. I think the other important point to bear in mind is that as ownership has changed from a realty development group to the real owners that intend to have these cabins for a lifetime, I believe that the word will go out from this process that we won't ever do anything without making sure that we have everybody in agreement.

Kovacovich asked for the storage shed for Unit 9 that came in today, I understand that may not be an all-inclusive list that was in that submittal, but it certainly seems that a 64 sq. ft. storage shed has way more space than what was listed there as items needing to be stored. I am having a hard time grappling with the fact that there is not room within that cabin to put those items, which to me did not seem overly large or involve a lot of space. I don't know if anyone is available to answer specific questions on the amount of things that need to be stored under this disability claim?

Grob added my thoughts on the two ADA items are, if we adopt the current decks and the allowance for sheds, even though they are there for ADA reasons, they would just stay there and they wouldn't have to remove them if the need went away. That just adds complicated management.

Kovacovich stated my perspective is that on Cabin 7, a 4' deck, which meets the ADA code for access, be allowed and the rest would be removed. I am not in favor of letting the decks stay, or the storage sheds, or the new building. That is where I come from because that is the covenant that everyone agreed to. Granted, we cannot see into the future, but what we do know is that the density is high and the impact is much greater than on a residential lot with lower density. Depending on how the Board feels, I am not sure that I can go along with what you are suggesting.

Grob made a motion to recommend the following to the County Board:

- We accept the owners association's commitment to return to the 50% mow-free area that they've been mowing – that they said they would conform with the requirements.

- We deny the requested additional 28' x 40' storage shed for the reasons identified.
- For Condition 2, the first sentence of Item 10 which is Condition 2 in the Conditional Use Permit Application 1-CU-09 conditions and restrictions application addendum is the only portion of that item that is approved with the sole exception that the platforms on Units 1 and 2, 3, 8, and 9 and the decks on Units 5, 6, and 7 that are documented in the current conditional use permit amendment application 2-CU-20 are allowed to be in place on the lakeside exterior side of the dwelling units. The balance of Item 10 in Condition 2 is eliminated as a condition of this approval.
- Condition 8 should be amended. Condition 8 which is found in the minutes of the County Board approval of the conditional use permit Resolution No. 02180903 of Conditional Use Permit 1-CU-09 shall remain in effect except that all units except Units 4 and 11 shall be allowed to have a storage shed on the non-lakeward side of their unit. The sheds shall not exceed 64 sq. ft. each in footprint and shall be less than 8' in height. The actual footprint dimensions, location, and colors can be managed or will be managed by the Green Pine Owners Association. The Cabin 7 and Cabin 9 Americans with Disabilities Act (ADA) requirements do not have to be corrected if the ADA needs are no longer required in the future.

Scott Anderson, legal counsel for the County, asked to make a comment.

Kovacovich agreed.

Anderson stated I make this comment in case it affects the vote. The statement about what might be appropriate for Cabin 7 was a deck that was 4' wide and anything wider had to be ripped out. You are all aware of my given advice on the ADA to you. I would feel uncomfortable with that limitation unless we had some facts and records to support that 4' is adequate. I know how the staff report read and that I reviewed it ahead of time, but I have reflected on things and we have an individual here with a clear doctor's note supporting what they have asked for in this case, in terms of the need for accessibility. I would feel comfortable moving it down to 4' if you had some facts in the record to support that 4' is adequate. Without that, I would feel a little uncomfortable approving it on the basis of being a reasonable accommodation if, in fact, we have an individual with brittle bone disease who is attempting to navigate as best he can using crutches and needing a little bit of extra space. I think you have to discuss as a Board as to whether you think that is an adequate amount to deal with the accommodation here.

Johnson seconded the motion that carried 4 – 1 with Kovacovich voting nay.

Grob provided the following findings of fact:

Findings of Fact

1. The property's existing dwelling unit density that is 175% over the density allowed by the Shoreland Management Ordinance (SMO) was allowed in the original conditional use permit on the condition voluntarily agreed-upon by the developer to prohibit the enlargement of any existing structure or the addition of any new structure. This is in

keeping with: 1. Item 2.C of Section 1013, PUD Maintenance and Design Criteria in the SMO that requires a permanently binding legal document such as a deed restriction be provided for any residential PUD that states construction of additional buildings is prohibited; and 2: Item 4 in Section 1014, Conversion to PUDs, in the SMO that requires during a conversion to a planned unit development (PUD), efforts must be made to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new septic systems, or other means. Allowing a new 28' x 40' storage structure to be placed on the property would not be in keeping with this ordinance language or the Planning Commission's and County Board's intent when it originally approved Conditional Use Permit 1-CU-09. Since the time of the 1-CU-09 application and subsequent ownership of the CUP units, the addition of decks on Units 5, 6, and 7, and the addition of sheds to Units 1, 5, 6, and 9, constitute minor modifications. These enhancements have no effect on the quality of the lake, are aesthetically pleasing, and support Americans with Disabilities Act needs on Units 7 and 9. The changes, if known at the time of approval of 1-CU-09, would likely have been approved.

2. Future space of original, undisturbed soil for future drainfield needs is at a premium on this property due to the high dwelling unit density that requires a sizable amount of drainfield area. The proposed 28' x 40' storage structure and related cleared area/driveway would reduce the potential drainfield area and is thus not beneficial to the development's long-term septic system needs.
3. Additionally, the Shoreland Management Ordinance and CUP Condition 2 requirement that the north 50% of the property's shore impact zone be placed into natural vegetation has not been met as this area consists of mown lawn and a small concrete platform with the applicants admitting during the public hearing that this area has been actively mown. This property's developers voluntarily agreed to this CUP condition.

New Business: None.

Board of Adjustment:

Approval of Minutes: March 22, 2021

Andres made a motion to approve the minutes as presented.

Grob seconded the motion that carried unanimously 5 – 0.

Old Business: None.

New Business:

[Variance Application 4-V-21 by Laurie Koehly](#): Part of Government Lot 8, Section 22, Township 141, Range 33, Mantrap Township on Spider Lake, a recreational development lake. Parcel 20.22.02200. Applicant is requesting a variance from Section 502.2 of the Shoreland Management

Ordinance for a proposed accessory structure to be located within the 100' ordinary high water mark structure setback.

Laurie Koehly, 24026 Hilltop Trail, Nevis, MN, presented the application.

Koehly stated I am just looking to remove the old structures that are out there and put in a small 20' x 22' garage.

Kovacovich asked when I visited the site, it was unclear exactly on the placement of the garage and the driveway area as it relates to the existing septic tank and lift station. Can you describe where that driveway, and any turnaround is, in relationship to that septic tank?

Koehly explained the septic tank is 10' away from where the structure would end up being. The driveway would come over between the house and the garage.

Kovacovich asked would the garage doors face the roadway?

Koehly replied yes they would.

Johnson stated I met with her on the site, and she is not going to have any door to where she would be backing over the septic tank. The doorway that she is going to have to enter is going to be towards the house now. She wouldn't disrupt the septic, and her turnaround would be backing out into the roadway.

Kovacovich opened for public comment.

No public comment was given.

Kovacovich closed public comment.

Andres asked will you be placing gutters on your garage?

Koehly replied yes I will.

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

Andres seconded the motion.

The motion carried unanimously 5 – 0.

Findings of Fact

1. Is the variance in harmony with the general purposes and intent of the official controls?

Yes (X) No ()

Why or why not? The lot is just shy of 100' in width and 185-195' deep with the back half of the lot having a 34% slope with 22' of rise that makes placing the proposed garage at a conforming OHW setback impractical. The proposed location is on the only flat spot on the lot and makes sense from a convenience standpoint for proximity to the cabin.

2. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?

Yes (X) No ()

Why or why not? A 20' x 22' garage is a reasonable request and placing it near the cabin is the only viable option given the lot constraints described in the response to question 1 above.

3. Is the need for a variance due to circumstances unique to the property and not created by the current or prior property owners?

Yes (X) No ()

Why or why not? Per the lot dimensions and topographic characteristics listed in the response to question 1.

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

Yes (X) No ()

Why or why not? The neighborhood consists of seasonal residences that are similar in size and ordinary high water mark setback to the cabin on this lot and the slope present on this lot also exists on the neighboring lots. The neighboring lots also have similar size outbuildings or garages to what is proposed for this lot.

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

Yes (X) No ()

Why or why not? Economics are not cited in the application as a practical difficulty. The difficulty on the lot is its small size and topography as detailed in the answer to question 1 above.

Variance Application 5-V-21 by Richard and Jodi Palmiscno: Lot 3 and part of Lot 4, Eagle Bay, Section 9, Township 139, Range 34, Hubbard Township on Long Lake, a recreational development lake. Parcels 14.41.00300 and 14.41.00410. Applicants are requesting: Part 1: a variance from Section 502.2 of the Shoreland Management Ordinance (SMO) for a proposed deck to be located within the 100' ordinary high water mark structure setback, and Part 2: an after-the-fact variance from Section 502.2 of the SMO for an accessory structure located within the 100' ordinary high water mark structure setback.

Jody Palmiscno, 824 Reeves Drive, Grand Forks, ND, presented the application.

Palmiscno stated we would like to build a deck on the front of the cabin to access the entryway to the cabin, probably more of a platform deck. It is just going to be about 8" level to the ground, just one step up, so that we can walk directly into the doorways and the patio door of the existing cabin. It would be along the front of the structure, 12' out and about 35' wide. There is a patio door on the far left, the actual access door to the cabin is in the middle, and then there is another set of patio doors on the right. When we submitted our application it was brought to our attention that the shed on the property was never permitted. We bought the property in 2019 and had no idea that it was not properly placed and permitted. After talking to the neighbors, we know that it has been there for 10-15 years. We are asking for permission to build the deck and keep the shed.

Kovacovich asked currently there are no gutters on the structure, is that correct?

Palmiscno answered there are no gutters on the shed, but last fall we had gutters put on both the front and back of the cabin.

Kovacovich stated the one thing that I noticed when I was there, and I will call it the driveway coming down, there seemed to be a fair amount of runoff taking place and going over the bank towards the lake. I am wondering what you are proposing to address that so there would not be continued runoff with gravel and other sediments running into the lake?

Palmiscno replied a lot of what you are looking at happened last fall in October when we had the access area shored up with boulders. At this time, we are just going to level the ground and reseed

with grass in that area. The excavators and the trucks made a lot of damage, but we are working on it.

Grob asked was that sandy area that you shored up with boulders, was that sandy area there when you bought the place?

Palmiscno answered yes. It was a cutout that was there, and there were some old green treated boards that shored it up a little bit, but it was all falling and it kept caving in. Last summer, with all the rains that we had out there, it really washed away quite a bit more. We applied for an application to shore it up and that was permitted. We did that last fall.

Grob clarified so that was permitted?

Palmiscno responded yes.

Grob continued there is a lot of area that you have obviously graded or leveled out in anticipation of putting the deck. It is bare ground. What I am trying to get at is that with your steep bank and your gutters, it is pretty clear that most of the water from the front side of your cabin, maybe even from the road behind, is running directly into the lake. Are you planning on planting grass in that area that is now bare ground?

Palmiscno replied yes we are, we have to get back out there. I am going to back up to your statement about leveling the ground in front of the cabin. We didn't do any of that. It is as it was. We have done nothing to the actual front area of the cabin. The only area that was disrupted was maybe 20' back of where the boulders were placed. The excavator came in right behind there. So, that level area where we want to put the deck, that is as it was when we bought the property. We do plan on planting grass and shrubbery, native plants, just to control the erosion. We do know that is a problem.

Grob stated that is where I was headed. It is bare ground now. Putting this platform so close to the lake, I would like to see a condition that you would, in fact, put more than just grass, but actually some buffer zone shrubs in that area to prevent runoff to the lake. Any thoughts on what you could do?

Palmiscno responded we are open to any suggestions with that. We do know that it is a problem, and we want to help stop the erosion. We were planning on planting grass across the whole front of it, and then adding shrubbery around the deck or down along the boulders to catch any runoff. We are open to suggestions to help that situation.

Andres added I am in line with Grob. The lakeside platform is a reasonable request, but a condition of some type of vegetation in that open area, I would be open to a condition of that as well.

Kovacovich stated I agree that we need some kind of buffer area. The size of the deck that is being proposed is 12' x 35'?

Palmiscno replied yes.

Kovacovich asked I am wondering, given the parameters of that lot and how close it is to the lake, would you lessen that deck size to 8'? That would certainly help for getting more vegetation between the cabin and the lake.

Palmiscno answered we would hope that the Board would allow the 12', because as you are coming in and out of the doorways, and if you place a table and some chairs, 8' gets pretty tight. We just

feel that the 12' does not extend that far out to where the ground is level. The level ground before it starts to slope down is quite a distance beyond the deck. We would like to keep it at 12' if possible.

Grob added when I was there, I saw a strip of about 10' wide and about 60' long that runs all the way over to where there is some grass. I would like to see that planted, not only with grass, but with some shrubs as a buffer zone. You would have to use professionals to tell you what to plant, but more than a "no-mow" zone. I would like to see that filled in with appropriate shrubs. The area that is not bare ground in front of your platform, I would like to see that as grass and a "no-mow" zone. You have a serious runoff issue for the property, and I think those two things would more than mitigate the platform that you are putting there.

Palmiscno asked I think that I need clarification for what a "no-mow" zone is. If we plant grass, we would like to be able to mow it and keep it from growing too high.

Grob explained the longer the grass, the more buffer that you get to prevent runoff. A "no-mow" zone is pretty typical. I don't think that you are going to get really tall grass.

Kovacovich stated there is grass seed available that is specifically made for a "no-mow" zone and is a shorter growing grass species that may be only 3" – 6". A professional can suggest seed mixtures that would work in most soil.

Petersen asked whatever is agreed upon for vegetation in front, until that vegetation is established, what about requiring a silt fence to be put up to collect runoff until the vegetation is established?

Kovacovich replied I would be in agreement with that just based upon what I saw there. Until we get some kind of cover growing there, it is going to continue to have runoff and erosion. A silt fence, or straw bales, to catch all of the sediment until that does get growing. I think that is a good idea.

Kovacovich opened for public comment.

No public comment was given.

Kovacovich closed public comment.

Kovacovich asked in regards to the storage shed, is there room on the back side of the cabin to move that storage shed, or do I recall that it gets fairly steep really quickly?

Palmiscno replied yes. It is very steep on the back side of the cabin, and the major area behind the cabin is used for the drainfield for our septic system that was installed last summer. Towards the road from the storage shed, it is all pine trees. The shed is 10' off the neighbor's lot. There is no place to really put it on the back side up the hill.

Grob stated I will make a motion, but before I do that I want to know what the Board's feeling is with regards to moving the shed.

Petersen answered my opinion on that is that if it were up to me, I would leave it where it is. It has been there for quite a while. I didn't really see a great spot in my mind to relocate that.

Grob asked could we put a condition on it that if it ever deteriorates to the point of needing to be rebuilt, that it has to be put somewhere else on the property.

The Board agrees.

Grob made a motion to approve Part 1 of the variance application with the following conditions:

1. A vegetative buffer zone of 10' deep (i.e. perpendicular to the shoreline and measured 10' landward from the crest of the steep slope along the shoreline) and 60' wide (i.e. parallel to the shoreline) must be created and maintained at the crest of the steep slope along the shoreline starting at the steps down to the lake and going 60' to the right (i.e. northerly direction).
2. A "no-mow" zone the width of the deck must be placed in front (i.e. lakeward) of the deck extending from the edge of the deck up to the condition 1 buffer zone along the crest of the steep slope.
3. A silt fence must be placed along the crest of the steep slope until the vegetation for conditions 1 and 2 is established.

Andres seconded the motion that passed 5 – 0.

The Board adopted the staff report findings of fact for Part 1.

Kovacovich made a motion to approve Part 2 of the variance application with the condition that if the storage shed deteriorates to the point that it needs to be rebuilt, it must then be removed from the property.

Petersen seconded the motion that passed 5 – 0.

The Board provided answers to the finding of fact questions 1, 3, and 4, and adopted the staff report findings of fact for questions 2 and 5 for Part 2.

Findings of Fact

Part 1

1. Is the variance in harmony with the general purposes and intent of the official controls?
 Yes () No ()
 Why or why not? The dwelling was allowed to be placed at an 85' OHW setback per Variance 83-18. The dwelling has two lakeside sliding doors to which a platform would provide more safe ingress/egress than the existing step down onto lawn. The approved platform is reasonable in size and still at least 24' from the shore impact zone. The lot is heavily wooded and with the platform sitting on the ground, it will not be visually obtrusive to neighboring property owners or visible from the lake. As the dwelling does not have entrance doors on its other three sides and it is built into the slope, placing a platform on either side or the rear of the structure is not reasonable.
2. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?
 Yes () No ()
 Why or why not? Having a platform on the lakeside of a dwelling on which there are two lake-facing sliding doors and a standard entrance door for safe ingress/egress is a reasonable request.
3. Is the need for a variance due to circumstances unique to the property and not created by the current or prior property owners?
 Yes () No ()

Why or why not? The variance need is due to the dwelling being allowed to be placed at an 85' OHW setback per Variance 83-18. Because the dwelling is built into a hill and all the entrance doors are on the lakeside wall, a platform cannot be placed in a location meeting the 100' OHW setback.

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

Why or why not? The neighborhood is comprised of mostly seasonal and a few year-round residences on lots of similar size. Many of the neighboring properties have a lakeside deck or platform on the dwellings. The platform will not be visible from the lake or neighboring properties.

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

Why or why not? Economic considerations are not cited in the application as a practical difficulty. The difficulty is caused by the dwelling being allowed to be placed at an 85' OHW setback by Variance 83-V-18 and because of the structure being built into a hill and all the entrance doors thus being located on the lakeside exterior wall, the only place a platform can go is lakeside of the dwelling within the 100' OHW setback.

Part 2

1. Is the variance in harmony with the general purposes and intent of the official controls?
Yes (X) No ()

Why or why not? It appears that the shed has been in place for many years and there are no erosion issues or other detrimental issues taking place based on observation.

2. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?
Yes (X) No ()

Why or why not? Yes, in that having a storage shed on a property that has no other storage structure is reasonable as is having the shed in close proximity to the dwelling. No, in that the lot is wide and deep enough that there is room to place the shed in a conforming location by permit.

3. Is the need for a variance due to circumstances unique to the property and not created by the current or prior property owners?
Yes (X) No ()

Why or why not? The shed is reasonable for storage given the small size of the lot and no ability to build a garage.

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

Why or why not? Looking at the adjacent landowners, what is here is not in any way more than what is on adjacent properties.

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

Why or why not? Economic considerations are not cited in the application as a difficulty. The difficulty alleged in the application is that of moving the shed to an alternate location on the lot.

Variance Application 6-V-21 by Tom and Rollin Anton: Lot 6, Block 1, Paine Lake Points, Section 21, Township 143, Range 34, Lake George Township on Paine Lake, a natural environment lake. Parcel 17.43.00600. Applicants are requesting an after-the-fact variance from Section 502.1 of the Shoreland Management Ordinance for a residential dwelling unit located within the 150' ordinary high water mark structure setback.

Tom and Rollin Anton, 36839 County Rd. 4, Lake George, MN, presented the application.

Anton stated present also is Derek Hartman, who we purchased the property from in August. He should be online as well.

Hartman confirms that he is present.

Anton continues we are here because we applied for a permit for an addition of a covered deck on the lake side of the house that we purchased in August. At that time, we were notified that the house was in violation. We are, first of all, trying to figure out why we are even here. We have a valid permit that was issued. It was with guidelines that were set forth to be followed. We did not own the property, this has all been found out after we bought the property. We did; however, prior to the purchase and prior to closing, we went into Environmental Services and spoke to one of their representatives. We went through the files in your offices and were told that everything looked fine. We looked through everything, and we were told that there were no violations or issues. We brought up that we had plans to add the deck on and they said everything looked fine. We did it again, in person, and went through a fine tuned plan of what we wanted to do. Again, we were told that everything looked good and just to fill out the application and bring it back. We went through everything and then got a notice from Environmental Services that, not only was the permit refused, but that the house appeared to be in violation according to GIS. They did measure in person and found out that it was noncompliant. It is not the whole house that is not compliant, it is one corner of the house that is across the 150' line. That corner is at 126'. This is a very irregularly shaped lot. There is water on two of the three sides. We have the well, septic, and a wetland area a little bit behind that. The house was placed exactly where the permit presented it. There is topography that shows that. The house was built in the only spot that it could have been put in.

Derek Hartman, 6958 Big Bass Road, Bemidji, MN, stated when my wife and I bought the property there was an existing home in place. I feel like I did my due diligence on placing the home. I didn't do it on a whim. I made many attempts to locate the home on the irregularly shaped lot. I humbly come before the Board looking for relief. This was an honest mistake.

Anton added what we are looking for is to find that the original permit be stated as valid. If that is not a possibility, then it would be for the after-the-fact variance. Like we said, we purchased the property in August. One month ago we found out that it is noncompliant. We are not quite sure what it is that we could do. When we were applying for the covered deck, that portion is in the compliant zone, but of course the corner there, the northwest corner, is out-of-bounds. To have the permit that we applied for, and was approved, be kept valid. There was no inspection. It was flagged for inspection and measuring, but we were told that nobody came out. We were surprised. We went into Environmental Services and went through everything. As most people that go into the government offices and look at documentation, and you believe it to be legal and true. We went in there and we made the purchase on the information given to us by Environmental Services and we took it as legal and true.

Kovacovich added all that we can deal with is the after-the-fact variance. That is what we will do.

Kovacovich opened for public comment.

No public comment was given.

Kovacovich closed public comment.

Grob stated I can understand how the measurement perpendicular from the front of the house to the lake could end up being at 150', and not take account for the angle of the corner to the closest spot. However, the measurement to the west, the 111', that is a pretty clear, definitive point. There is a bank that goes down, and then it is very clearly lake from there. This time of year that is all water. Hartman, how is it that you thought that was 160' rather than 111'?

Hartman replied when I did measure that, there are some tall reeds there. I pulled that measurement when it was dry. I tried to verify what the high water mark was at the time, but I wasn't too educated in that. I wish that I would have been more educated in. It was a dry area, and I was walking on it physically and not getting wet.

Grob added this time of year it is all water. All around there are reeds, so obviously that would have been lake.

Andres commented this after-the-fact variance application is for the entire residential dwelling structure "as is" to be located within the 150' ordinary high water mark setback. To my understanding, the applicants demonstrated due diligence before purchasing the property. They came into the Environmental Services Office and reviewed all the records. The prior owner states that he thought he took his measurements where it was dry. Obviously, there was an error. There aren't any surrounding neighbors, and the house is still set back quite a way from the lake. I am definitely in favor of approving the request.

Anton added I wanted to make sure that this includes everything in the original structure, and everything that was added, like the porch on the side and the entryway. We just want to make sure that everything is okay, and that we move forward from here so that we don't end up here when we go to sell it and somebody else has an issue.

Andres made a motion to approve the variance application and the residential dwelling unit "as is" in its current state and extent.

Johnson seconded the motion that passed 5 – 0.

The Board adopted the staff report findings of fact for questions 1, 2, 4, and 5, while providing the answer for question number 3.

Findings of Fact

1. Is the variance in harmony with the general purposes and intent of the official controls?
Yes (X) No ()

Why or why not? Given the location of the detached garage, driveway, and septic system and the unique shape of the lot and its fronting the lake on two sides, there is no feasible alternate location to which the structure could be relocated. The dense, mature tree cover between the house and lake provide effective screening and serves as a stormwater buffer to the structure's impervious surface area.

2. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?

Yes (X) No ()

Why or why not? Having a residence on a lot platted for such a residential use is a reasonable request. The lot's unique shape and having lake frontage on two sides of it significantly limits where a structure can be placed on the lot.

- 3. Is the need for a variance due to circumstances unique to the property and not created by the current or prior property owners?

Yes (X) No ()

Why or why not? The applicants demonstrated due diligence before purchasing the property by going into the Environmental Services Office and reviewing all previous permits. They were under the understanding that everything was legit.

- 4. Will the issuance of the variance maintain the essential character of the locality?

Yes (X) No ()

Why or why not? This is the furthest south lot of six lots in this plat. The furthest north lot is undeveloped. The next four lots in the middle of the plat are owned by two parties that each own two lots – each having a residence on the north of the two lots owned with the south lots being undeveloped. The residences on these two neighboring lots meet the 150' OHW setback. This said, these other lots are seasonal residences and the house on the subject lot does fit with the locality's residential use and thus maintains its character.

- 5. Does the stated practical difficulty involve more than just economic considerations?

Yes (X) No ()

Why or why not? The lot is narrow in width and fronts the lake on its west and south sides which limits the area that meets setback requirements. The difficulty is created by the placement of the detached garage and septic system which prevent the house from realistically being able to be moved back to a conforming setback.

Variance Application 7-V-21 by Todd and Deborah Moeller: Lot 7, Block 1, Re-Arrangement Minndiana, Section 36, Township 141, Range 34, Lake Emma Township on Little Sand Lake, a recreational development lake. Parcel 16.43.00700. Applicants are requesting two variances: Part 1: Section 506 of the Shoreland Management Ordinance (SMO) for a proposed guest cottage that exceeds the 700 sq. ft. maximum allowed footprint on a lot that does not meet the minimum lot width and area requirements, and Part 2: Sections 503 and 703 of the SMO for a proposed expansion of an existing lakeside deck located in a bluff impact zone.

Todd and Deborah Moeller, 514 23rd Ave. N. Fargo, ND, presented the application.

Moeller stated we are asking for a variance to add a guest cottage as an upper level to our current garage. We are asking for a slight expansion to our deck that is attached to the cabin.

Kovacovich opened for public comment.

No public comment was given.

Kovacovich closed public comment.

Kovacovich asked on the deck you are proposing a 2' x 12' addition on the side, not the lakeside, but on the right-hand side?

Moeller replied that is correct.

Kovacovich stated I see that as a reasonable request to get a little more space to get around a little easier on that corner. I am guessing that it is really cramped right now, and you want to utilize that for an outdoor space for gathering.

Moeller answered that is right, and we didn't want to encroach further towards the lake. We thought that was a good solution to go off the east side.

Andres commented during my lot viewal, the deck definitely needs to be replaced and this would be a good time for that small addition. I am in favor of the 2' x 12' addition on the deck.

Kovacovich clarified in Part 2 you are asking to put a guest cabin above the existing garage?

Moeller responded correct.

Kovacovich asked that would only be 700 sq. ft., is that correct?

Moeller answered that is what we proposed. Our preference would have been to go straight up, since the garage is already existing, but we understand that there are restrictions in place. We were trying to go by the plans. We limited it to the 640 sq. ft. and had to bring it in a little bit to hit that. That is why we applied for the smaller guest cabin versus going the full length and width of the current garage.

Kovacovich stated I do have issues because of the size of the lot. From my knowledge, the Board has not been favorable to allowing guest cottages on lots that are this small.

Grob added if you recall, not too long ago, in order to have a guest cabin you needed a duplex sized lot, 225'. The Ordinance was changed to allow guest cabins on a standard residential lot, but it had to meet the 40,000 sq. ft. and the 150'. If we go the next step, and start allowing guest cabins on undersized lots, I think we are out of harmony with the intent. My understanding is that this area of the lake has a lot of undersized lots. I am not in favor of allowing a guest cabin on this small of a lot, even on top of the garage.

Petersen asked we are not meeting the 700 sq. ft. maximum, is that correct?

Moeller answered we are at 640 sq. ft., so it is smaller than the garage footprint.

Grob explained even though that living area is smaller, we go by the footprint of the structure that is existing, according to our current Shoreland Management Ordinance.

Moeller stated that was a permitted garage initially.

Kovacovich said garages and guest cottages are two different items.

Andres added even though they are wanting to build smaller than 700 sq. ft., it currently does not fit in the Shoreland Management Ordinance because the garage is larger. It also is 10,000 sq. ft. shy of the minimum lot requirements, and 50' short on the lot width. It is a smaller lot. I am not in favor of approving the guest cottage, but I am in favor of the deck.

Kovacovich made a motion to deny Part 1 and approve Part 2 of the variance application.

Grob seconded the motion that passed 5 – 0.

The Board adopted the staff report findings of fact for both Part 1 and Part 2 of the variance application.

Findings of Fact

Part 1

1. Is the variance in harmony with the general purposes and intent of the official controls?
Yes (X) No ()
Why or why not? The proposed deck expansion is only 2' x 12' in size and will be placed along the east side of the existing deck which will not cause the deck to go any closer to the OHW.
2. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?
Yes (X) No ()
Why or why not? Having extra width on part of the deck to accommodate placement of a table and chairs that doesn't cause the deck to go any closer to the OHW or waterward into the bluff impact zone is a reasonable proposal.
3. Is the need for a variance due to circumstances unique to the property and not created by the current or prior property owners?
Yes (X) No ()
Why or why not? The cabin and attached deck were constructed prior to the Shoreland Management Ordinance being enacted and are located in a bluff impact zone.
4. Will the issuance of the variance maintain the essential character of the locality?
Yes (X) No ()
Why or why not? The proposed deck expansion is very reasonable in scale. The locality consists of a mixture of seasonal and year-round residences with the dwellings being located at a similar OHW setback and also on the slope present on this lot. Most of these dwellings have some form of a lakeside deck or platform. The proposed deck enlargement is very small and will not harm or alter the locality's character.
5. Does the stated practical difficulty involve more than just economic considerations?
Yes (X) No ()
Why or why not? Economics are not cited in the application as a practical difficulty. The difficulty is due to the cabin and its attached deck having been constructed prior to the ordinance in what is now a bluff impact zone per the ordinance.

Part 2

1. Is the variance in harmony with the general purposes and intent of the official controls?
Yes () No (X)
Why or why not? The lot does not meet the minimum lot size requirements by a significant amount as it is only $\frac{3}{4}$ of the required lot area and $\frac{2}{3}$ of the required lot width. Additionally, the proposed guest cottage footprint is 196 sq. ft. greater than the 700 sq. ft. maximum footprint allowed for a guest cottage.
2. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?
Yes () No (X)
Why or why not? As stated in the response to question 1 above, the proposed guest cottage would exceed the 700 sq. ft. maximum footprint by 28.6% and the lot is significantly shy of meeting the required minimum lot width and area.

3. Is the need for a variance due to circumstances unique to the property and not created by the current or prior property owners?

Yes () No (X)

Why or why not? The variance need is really a “want” by the current owners. There is no property circumstance that causes the proposed guest cottage to need to exceed the 700 sq. ft. threshold. And the lot significantly fails to meet the minimum lot size requirement in order to have a guest cottage.

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

Yes () No (X)

Why or why not? All of the lots in this plat do not meet the minimum lot width or size requirements in order to have a guest cottage. Allowing a guest cottage that exceeds the 700 sq. ft. threshold by 28.6% would further exacerbate the incongruity with the locality’s small residence feel.

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

Yes (X) No ()

Why or why not? Economic considerations are not cited as a practical difficulty in the application.

Variance Application 8-V-21 by Kenneth Thompson: Lot 28, Block 1, North Oaks, Section 21, Township 140, Range 33, Nevis Township near Lake Belle Taine, a recreational development lake. Parcel 21.61.02800. Applicant is requesting a variance from Section 904.6 of the Shoreland Management Ordinance for an after-the-fact variance to exceed the 25% of lot area impervious surface area threshold.

Ken Thompson, 23732 Elderberry Circle, Nevis, MN, presented the application.

Thompson stated I am requesting a variance to go over the 25% threshold of impervious surface on an after-the-fact issue. We did not do it intentionally. We did not realize that we were over the 25%. We only found out when we went in to request a building permit for an addition on the building, which is also part of this. We are requesting a variance for 2- 45’ x 50’ additions on both ends of the building. We will be putting the building over the impervious surface already, so that won’t make a difference there, other than it is an additional 780’. We are right at the end of the 1,000’ lake requirement. We have two County roads in between us, we have never had any standing water or runoff issues with this property, and it is sugar sand around us.

Grob asked what is the purpose of the two additions?

Thompson replied more storage. We need more building storage inside to store some of the equipment that we currently have outside.

Kovacovich asked what kind of vehicles are coming in that you enlarged the driveway to such an extent?

Thompson answered we have semis that come in with building materials.

Kovacovich opened for public comment.

No public comment was given.

Kovacovich closed public comment.

Grob commented the impervious surface violation is small. The real intent of the impervious surface is to protect a lake, and especially the first 100' of the setback zone. This property is 680' from the lake and there are roads in between on two sides. The fact that it is a very small percentage over the impervious surface, even though it could have been avoided, I don't think that it has any impact on the lake or any impact on the area around it. I don't see impervious surface as a big issue in this situation.

Kovacovich stated I am in agreement with that. It seems to me that there is an excessive amount of driveway and concrete, but it is just a few percentage points. The purpose of the Ordinance is to protect the lake from runoff that could do harm, it certainly does not appear that we have that issue on this site. I do think this is a reasonable request even though it is after-the-fact.

Andres added I agree with you both, the percentage is 1.8% according to the staff report. I agree the impervious surface would not have any negative impact on Lake Belle Taine.

Grob made a motion to approve the variance application allowing the two proposed 45' x 50' additions to both the east and west sides of the existing structure.

Petersen seconded the motion that passed 5 – 0.

The Board provide answers for the findings of fact questions 1, 2, and 3, while adopting the staff report answers for questions 4 and 5.

Findings of Fact

1. Is the variance in harmony with the general purposes and intent of the official controls?
Yes (X) No ()
Why or why not? Although the concrete does exceed the 25% impervious surface threshold, and probably could have been avoided, the circle path does provide easy access for the business and the impervious surface is not effected in regards to the lake. Therefore, I think it is in harmony with the intent of the aspect of the Shoreland Management Ordinance.
2. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?
Yes (X) No ()
Why or why not? The owner is just trying to improve his property for his personal business growth.
3. Is the need for a variance due to circumstances unique to the property and not created by the current or prior property owners?
Yes (X) No ()
Why or why not? This is a very unique situation in the sense that the structure is on 4 acres of land and the business is over 600' from the lake. The application of impervious surface is really not relevant in this case, so therefore I believe that unique aspect allows us to say yes on this item.
4. Will the issuance of the variance maintain the essential character of the locality?
Yes (X) No ()
Why or why not? As the requested variance involves impervious surface area that is largely driveway, the paved surfaces do not harm the mixed residential/commercial character of the locality.

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

Yes (X) No ()

Why or why not? Economic considerations are not cited in the application as a practical difficulty.

Variance Application 9-V-21 by Joseph and Kristi Crawford: Lot 3 and part of Lot 2, Block 1, Lady Slipper Beach, Section 6 and 31, Township 141 and 142, Range 33, Mantrap Township and Thorpe Township on Big Mantrap Lake, a recreational development lake. Parcels 20.39.00300, 20.39.00400, and 26.37.00100. Applicants are requesting a variance from Section 502.2 of the Shoreland Management Ordinance for a proposed accessory structure to be located within the 10' property line and 20' road right-of-way structure setbacks.

Kristi Crawford, 4263 41st Ave. S., Fargo, ND, presented the application.

Crawford stated the variance request is at our property at 27995 Island View Drive, Park Rapids. We are requesting a variance to build a garage on our property. We purchased the property in June of 2019 with a long-term goal to retire there when we are fortunate enough to retire in another 20 years. We are asking to build a garage on the rear lot of our property, away from the lake. On the application that was sent in, we tried to figure out some alternative locations. We weren't sure if we should withdraw this application or still attend the meeting tonight just to get some feedback from the Board. The current request was for a 30' x 50' 2-story garage; however, it might not be aesthetically pleasing to the surrounding neighborhood to have a garage that large. We do not have any alternative locations to build a garage on our property. On one side we have the well and on the other side we have the septic. By looking at the diagram that you have in front of you, there is an existing one-stall garage, but it is not wide enough. We are asking to remove that garage. My understanding is that it was not permitted when it was built, and it is over our property line, currently sitting on an easement. We are requesting to build a new 30' x 30' single story structure, just so that we have the ability to park two cars there in the winter when we move to the house full-time. As you all know, it is nice to have your car in a garage in the winter when you live in Minnesota. I believe in the paperwork it said that we are requesting the 10' variance off our property line, but a point that I would ask for clarification is the 20' setback on the public road. I looked at the Shoreland Management Ordinance 17, Amendment 19, definition of a public versus private road. The road that is in front of our property at 26.31.03500, which is owned by Ulm Trust, is a road that I, and our neighbor that lives there full-time, pay for snow removal and maintenance. I thought maybe that was considered a private road. When you drive down past Island View Drive, there is a gate that says it is a private drive. We are very open to feedback comments. If we have to take it back to the drawing board we can come up with some alternative designs.

Grob stated I had difficulty when I was out there because there were no flags that indicated where the property line was, and where the easement lines are. It was very hard for me to determine how much in conflict it was with our ordinance. Why had you intended a two-story, 24' structure?

Crawford answered we had wanted to leave some stakes up because we knew that you would all come look at the property. Right now there is a property marker stake with a pink flag on it. We paid a local survey company to come in and tell us where our lot line was. We had to remove the stakes and the flagging of where we were proposing the garage structure. If you were out there you will notice in the roadway there is an island of trees with some landscaping of bricks around it in the middle of the road. Most people who come down Island View Drive have to turn around in our driveway in order to get turned around and back out of Island View Drive. The person that owns the property there has given us permission to remove those trees and widen that road, allowing for people to turn around and travel on that road better. As for the two-story, I think my husband was

thinking that when we retire we will be selling our house in Fargo, and we will have a lot of stuff. He was thinking of storage. After talking with him more about it over the weekend, I think something like what we have in Fargo, which is a two-stall garage, would be sufficient and not a huge eyesore for the neighbors.

Grob continued how about other locations on your property? At the back door to the house, to the right where the drainfield is, there seems to be an area there. You have a long sliver of land down to the left. Have you considered, especially if you down size, one of those two locations could be utilized?

Crawford responded we did look at that. If you are standing at our door and looking at the road to the right, you are correct that our septic and our drainfield is there. We would not have the 100' to build a structure off of the lake. We could not build on top of our drainfield or septic. Then our septic ends and it is a start of a new property. We don't have any room on any of those parcels. To the left, when you are standing at our door, we also would be very close to the 100' of what you would need to build off the lake. There are a lot of trees on that little sliver. I would hate to cut down so many trees to build a garage. We were trying to look for an open, flat area not on top of the septic. The rear lot is the only location that we could come up with. After talking with builders, that is what they suggested as well. I think the smaller garage would be in alignment better with the existing house. If we built a smaller structure 30' x 30' or 28' x 28', we would not need a variance off of our property line on the southwest corner, it would just be the southeast where we would need a couple feet for the variance because it is an awkward shaped lot and it does not quite fit on there straight.

Kovacovich stated I have difficulty imagining exactly where this road right-of-way is. I could see the property lines on the sides of the house. I was unclear about where the road right-of-way lines were. If you shrunk the garage down to a single story, would you be able to meet the setbacks and build by permit rather than a variance? Have you explored that?

Crawford replied yes. We measured it all out over the weekend again to see if we could fit in a smaller two-stall, single story garage. One corner of it would be 7' to the property line, so we would still need that 3' variance. If we put the garage in alignment parallel to the house, it would be close, but we are not quite there.

Grob added I think a slight incursion on that side of your lot is not that bad if it is a few feet, as opposed to the other direction where people come around the corner.

Crawford said what we are proposing is actually further back where the existing garage is. We want to tear that down because it is not even on our property. A corner of it sits on that easement road. We would actually open up the roadway and make it wider by tearing down that garage. Our setback would still be further back by the corner of that existing garage. I think we would actually be improving the road and allowing for two cars to be able to pass each other on that road where now you cannot.

Grob continued I think they understand our perspective here. I don't think that we can act on this tonight without a size and a proposal about how they would place it on the lot and the actual setback so that we could see it again.

Kovacovich added I am in agreement with you. I certainly want to see something much smaller than the 30' x 50'. I would really like to see exactly how it sits in relationship to those boundaries. Does the rest of the Board have an opinion?

Andres stated my questions were very similar to Grob's questions. I was curious what the second story was going to be, if it was going to have water, sewer, or living quarters. I am very open to the

request of shrinking the size down. When I was there I saw that pink stake that showed the property line, but I didn't see any other markings where this garage was proposed. I am in agreeance with tabling it and having it marked and flagged where this smaller structure will actually be placed.

Petersen added I concur with Andres and Grob. I would like to see something shown, so that we could really get a feel for what the reduced proposal would be. I think tabling it would be the best idea.

Johnson stated I agree too, but I think 30' x 30' or 24' x 30' or 30' x 40'. What would the Board do? Could we come up with something that is close for them to figure out for the drawings? I am thinking something like 32' x 24' or 30' x 30'.

Grob added 30' x 24' allows one to have basically a three-stall garage, which means two cars and maybe a boat. Something in that range would make sense.

Kovacovich opened for public comment.

No public comment was given.

Kovacovich closed public comment.

Crawford asked is the road that is privately owned by someone, would that be considered a private road or a public road? Looking at Section 502.2 of the Shoreland Management Ordinance, I see that it does say a setback of 20' from the right-of-way of other public roads, but like I said that parcel with the road on it is privately owned. We pay for the snow removal and road maintenance. So, I wasn't sure if it would be a public or private road. With a 20' setback we really couldn't do a garage then.

Buitenwerf stated the township road map that we received from the township indicates that they claim that to be a township road. I will pull up the plat and see if that adds any further information.

Crawford said it is paved up until the gate. On the gate it says it is a private road, do not enter. We pay for our own snow removal in the winter, and also the maintenance of it.

Buitenwerf stated the plat that is on the screen shows it as a private drive then, so we would probably have to reach out to the Township for clarification. As you can see, the map is not in enough detail to show where the road that they say is a township road terminates.

Grob asked if it is not a township road, there is really no setback requirements, is that true? The only issue then would be the setback from property lines.

Buitenwerf replied it would then be the 10' property line setback.

Crawford asked would I need to know that information before filling out the amended paperwork then to take that into consideration?

Kovacovich stated I think that would be very good. We will have Environmental Services contact the Township for our clarification, but I think that I would do the same if I were you.

Kovacovich made a motion to table the variance application to allow the applicants time to submit an amended site plan to reduce the size of the proposed structure and find out the extent of the Township road right-of-way.

Andres seconded the motion that passed 5 – 0.

Variance Application 10-V-21 by Scott and Delora Peterson: Part of Lot 14, Perry's Sunset Beach, Section 7, Township 140, Range 32, White Oak Township on 8th Crow Wing Lake, a recreational development lake. Parcel 28.38.01300. Applicants are requesting an after-the-fact variance from Section 702 of the Shoreland Management Ordinance for an addition to a nonconforming structure located in the shore impact zone.

Brian Kallio, 2816 St. Anthony Blvd, St. Anthony, MN, family member of the applicants, presented the application along with Christine Alexander, 4144 Primrose Path, Vadnass Heights, MN, authorized agent for the applicants, and Delora Peterson, 2551 38th Ave. NE, St. Anthony, MN, applicant.

Kallio stated I am a family member of the applicants and helping them out here. I work with other counties and municipalities with plan reviews and permit applications. On the variance application, if you scroll down to the site plan that we have, the cabin was constructed in the '70s. It is a nonconforming structure within the shoreline setback zone. The project that was completed was to build a small additional overhang over the back door to keep rainfall off of it and make it a little bit safer so that it does not get slippery when it rains. The total area added to the rooftop is about 2 ½ feet sticking out from the existing eaves, so it is very small footprint added. Again, that is largely for safety walking in and out of the building when it is raining. Delora and Scott are getting up there in years, it is for their protection. This was built two summers ago in 2019. Then, when we were submitting applications to rebuild the deck, this was brought up by the County who came out, saw it, and said that we should have had a variance application for this addition, rather than the land use application that was submitted. So, we resubmitted with the after-the-fact variance application this year.

Christine Alexander stated I am Delora Peterson's daughter. I have Delora here with me. I met with Hubbard County Environmental Services in July of 2019 and was told to apply for a land use permit. That is what I did, and then when we applied for a land use permit for the side deck, which is falling off the cabin, he came out and said that the land use permit should have been a variance permit because we added roof to the top structure. I am not familiar with this kind of an application. It is a very honest mistake. We are concerned about our elderly parents. It has been a troublesome spot on the back of the cabin. The wood on the bottom was rotting and it was very slippery. Our parents were living there full-time at that time. Now they are just visiting, and our whole intent was to make it safer for them when they come up.

Delora Peterson stated it was 1962 when we built the cabin, and we were in our early 20's. We enjoyed the lake, the woods, and the cabin. We have been going up there with the help of our children. We are not able to be up there by ourselves. The problem with going out that back door was that it is unstable, and we needed something more stable to make it safe. The baseboards were rotting and we would like to stay at the lake. We are so grateful that our kids are willing to help us out. It was a good thing to put a little cover over that back door.

Grob said it seems like a very reasonable safety addition. The only issue comes through the fact that there was a mistake in terms of a permit versus a variance. What was done seems very reasonable.

Kovacovich stated I am in agreement.

Kovacovich opened for public comment.

No public comment was given.

Kovacovich closed public comment.

Andres added I am in agreeance with you both. The covered entry being located on the non-lakeside of the cabin, and the water-related issues for constructing the entry are valid. I support approving the variance application.

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

Kovacovich seconded the motion that passed 5 – 0.

Findings of Fact

1. Is the variance in harmony with the general purposes and intent of the official controls?
Yes (X) No ()
Why or why not? The covered entry is only 4' x 8' in size and located on the non-lakeside exterior wall of the cabin which was constructed in the shore impact zone prior to the Shoreland Management Ordinance taking effect. The entry will address water-related damage being caused to the structure where the exterior door that it covers is located.
2. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?
Yes (X) No ()
Why or why not? Having a roof over an exterior door to shelter it from water-damage and residents entering/exiting the cabin is a reasonable request.
3. Is the need for a variance due to circumstances unique to the property and not created by the current or prior property owners?
Yes (X) No ()
Why or why not? The cabin was built before the Shoreland Management Ordinance took effect at what is now a nonconforming 16' ordinary high water mark setback. The ordinance prohibits additions to structures located in the shore impact zone unless a variance for such is granted.
4. Will the issuance of the variance maintain the essential character of the locality?
Yes (X) No ()
Why or why not? The covered entry is only 4' x 8' in size and will not harm the locality's residential use character whatsoever.
5. Does the stated practical difficulty involve more than just economic considerations?
Yes (X) No ()
Why or why not? Economic considerations are not cited in the application as a practical difficulty. Rather, the difficulty is the fact that the cabin was constructed prior to the ordinance at what is now a nonconforming ordinary high water mark setback.

Variance Application 11-V-21 by Martin and Suellen Brown: Part of Gov't Lot 8, Section 9, Township 140, Range 33, Nevis Township on Lake Belle Taine, a recreational development lake. Parcel 21.09.03210. Applicants are requesting a variance from Sections 501.2, 1001, 1003, and 1005 of the Shoreland Management Ordinance and Section 4, Subdivision A.c.2 and Section 4, Subdivision A.c.5 of the Subdivision Ordinance to create a lot that does not comply with the 150'

minimum lot width or the four lot limit on the number of lots within a government lot allowed to front a given side of a public road.

Andrew Burton, authorized agent for the applicant, presented the application along with Martin and Suellen Brown, 24098 200th Street, Nevis, MN, applicants.

Burton stated we are within 6" of our subdivision of the lot to coincide with the 150' lot minimum. The number of lots for the government lot to allow 4 or less, we could also apply for a variance and use the existing if need be. That was really not in my opinion contentious, because we could go either way. I didn't know how to approach the Planning Commission on that.

Grob added I know the drawing shows a little jog around the shed, versus a straight line, a 50/50 split of the property. When I was out there on lot viewal, down by the house, it looked like the flags went right through a part of the house and was only 7' from the property line. You have to help me out. What is the real intent when you have to take into account the well and the west side of the house?

Burton replied we are up for any recommendations from the Board to fit in the next house that we want to build. If that includes a variance to include around the well, our surveyor set those lines. As we look at the certificate of survey, the scale is a little bit off, but those orange flags I believe were what I placed. Do you know the date of that picture right there? Grob, did you view the site in person?

Grob replied yes. It seemed to me that the actual property line ran right through that caged area, and it was 7' from the current house. That would imply that the boundaries for that west tract would not allow a 10' setback. Even if you remove that cage, it still wouldn't allow for a 10' setback from the house. Why didn't you jog around the house like you did for the shed?

Burton answered I assume that could be done. We instructed the surveyor to split the lot. I figured that we could address these however the County would see fit. We have a well to address, and I would imagine it is how the surveyor can create those setbacks by placing his lot lines.

Johnson added I didn't see a lath. Did you say there was a lath, or did you say there were flags?

Burton stated I went out and placed orange flags personally. That was before the surveyor placed his lath and his marks. I had made assumptions on where it was approximately at when I submitted this, and then we had the surveyor come out and he placed the lath.

Kovacovich clarified Johnson was asking if you were looking at the flagging or the lath.

Burton replied I was stating that I placed the flags on the assumption on where the lot should be, the surveyor placed the lath in the ground.

Kovacovich said Grob, the question to you is if you were looking at the flagging or the lath?

Grob answered I was looking at the stakes that identified the property line. I measured it at 7' from the corner of the building, not including that cage, and 27' from the well. How close can a well be to a property line, Buitenwerf?

Buitenwerf replied I am not aware of there being any setback requirement.

Grob continued even though the well might end up on the west plat, and still be the one used for the east is not an issue?

Brown stated that would not be an issue.

Grob stated for me to approve this, there has to be some support for the fact that the property line allows at least a 10' setback from the house.

Brown added I think we can jig jag it just like we did on the building up above.

Andres commented because this particular situation currently has 6 lots on the north side of the 200th street, of the dead end, I agree with the staff report in having a condition that the two tracts must share the existing driveway approach onto 200th Street, and the necessary easements to accomplish that must be developed and submitted as part of the required administrative subdivision application.

Brown stated I don't think there is a problem with that at all.

Kovacovich added I am in agreement that there should be just a single driveway off of 200th Street, and where they split it inside is up to them. I do believe that whatever we do here tonight, a condition needs to be added that the survey identifies and meets all distances required for that lot line.

Petersen stated I know that Grob had made reference to 7' from the house to the property line. Do we want to have the surveyor identify exactly what they are proposing there, rather than us making a guess?

Kovacovich agrees.

Grob added I would think that we could possibly approve this with the condition that the final plat ensures that there is a 10' setback from the corner of the main house, not the cage area. Would that work?

Buitenwerf explains the certificate of survey that was included in the application is to scale, and it shows that the house will clearly meet the 10' setback from the proposed division line.

Grob continued then the line on the drawing is wrong because the stakes that identified the property line are 7' from the corner of the house. I measured it. Either that line is wrong on here or the location of the building is.

Brown stated I don't know that it is 7', but it is really close. I do believe we can have it surveyed to be 10'.

Buitenwerf replied I didn't view the property, so if the lath denotes the property line, then I would say that it would be appropriate to get clarity from the surveyor as to why there is a discrepancy between the lath and the submitted survey.

Kovacovich opened for public comment.

No public comment was given.

Kovacovich closed public comment.

Kovacovich stated I am wondering if the best course of action on this would be to table this until next month and get clarification from the surveyor on the lot line location and distances from the house and well.

Andres added I agree since we have some discrepancy issues between the lath and the survey paperwork that we have in front of us, we should table it.

Kovacovich made a motion to table the variance application to allow time for the surveyor to clarify the proposed lot line location and setback distances, and to have the proposed lot line clearly marked for the May meeting lot viewal.

Petersen seconded the motion that passed 5 – 0.

Variance Application 12-V-21 by Jeffrey Gast: Part of Gov't Lot 1, Section 16, Township 139, Range 33, Crow Wing Township on 3rd Crow Wing Lake, a recreational development lake. Parcel 06.16.00200. Applicant is requesting a variance from Section 702 of the Shoreland Management Ordinance for a proposed lakeward addition to a nonconforming residential dwelling.

Kovacovich asked Buitenwerf at this point it is an after-the-fact variance, is that where we currently stand?

Buitenwerf replied that is correct. Since the public notice was sent out, our office was made aware that the construction had commenced, and that was verified. The applicant did amend the application today to reflect the fact that it is an after-the-fact situation now.

Jeffrey Gast, 637 35th Ave. E, West Fargo, ND, presented the application.

Gast stated I am asking the Board to approve an after-the-fact permit for a lakeward addition. The improvement is 18' wide and is 12' towards the lake. This ends up infracting on the 100' setback.

Grob added the drawings get very hard for me to know the exact dimension. From the front of the house, not the deck or the slanted roof area. How far is the front of the house from the lake?

Gast answered the front of the house to the lake on that corner looks like it would be 100'.

Grob clarified so 88' is the distance to the edge of the slanted roof entryway, and the house is 100' back from the lake.

Gast stated my amended application today, with the 12' addition, is showing 85'. Environmental Services measured it. When I measured it, I measured perpendicular with the lot line, and they measured it to the closest spot to the lake. If you go off of the Environmental Services measurements from the inspection, the corner would be 97', without the addition, to the lake.

Grob asked when you say without the addition, to the edge of that slanted roof

Gast said there is a slanted roof entry way to the porch on the lower level. You would be 88' because that porch measures out 9' from the house, and the addition is another 3' over that right now.

Grob stated that is what I am trying to get at. You are basically proposing adding 3 more feet lakeward from what the existing structure is.

Gast replied that is correct.

Grob continued how far is that actually then from the lake?

Gast answered it came out to 85'.

Grob asked that is the 85' that you put on your most recent drawing?

Gast responded it is. When I was asked to submit the application, I measured it from a perpendicular point on the lot line. The house is set back from the lot line approximately 35'. I went over 35' on the lake frontage and posted the measurement. At that time, with a 14' addition, I came up with 88'. There are two ways of measuring it. I am sure the way that Environmental Services did it is correct. They went to the closest point, the lot is a little irregular on the frontage.

Grob stated I am going to go on the concept that your addition is encroaching 3' farther than your current structure and that is 85' from the lake. Those are the numbers that I am sitting with.

Gast answered those are the numbers that we put on there, and I am happy with that. With my application, I have two existing structures that are down by the lake. I am proposing to give up those structures. One of the structures is 32 sq. ft. and the other is 64 sq. ft. That would be a total of 96 sq. ft. being eliminated from the property. I am giving up 96 sq. ft. and asking for 54 sq. ft.

Andres added during my lot viewal it was obvious that some construction took place, but I also noted that Gast informed me that he decreased the size of the addition from 14' down to 12'. So, now it comes in line with the existing deck that he has, is that correct?

Gast replied it is. On my original application I wanted a 14' addition. Once we put the layout on it, one of the corners of the house is out of square and the foundation steps down. The contractors were able to come out last weekend. That addition requires quite a few people. I needed the help. From my original application I am subtracting out 44 sq. ft. with backing it off from 14' to 12'. It still matches up with the existing deck, which comes out 12'.

Andres asked the wall is now flush and level with the deck, is that correct?

Gast responded yes, and Environmental Services came out and verified.

Andres asked so the only part now that would go over that measurement would possibly be an overhang?

Gast answered there will be soffits on that. I am looking at 18" on the soffits on the front of that house.

Grob stated the current after-the-fact situation, the 12' x 18.8' wide, lining up with the deck, it still doesn't extend anywhere near the length of an existing platform and the concrete walls. I think what is currently existing, and the after-the-fact situation, is not unreasonable at all.

Andres agreed. The requested addition will not have much more impervious surface except the possibility of the overhang. This addition was going over that slanted porch area and is not much closer to the lake. I would suggest a possible condition of gutters to eliminate some of that runoff that is going to go straight down.

Gast replied prior to this, none of the house had gutters, even on the lakeside where it comes onto the deck. We did install some rock under the deck to prevent erosion. I actually installed more rock towards the north side. There is not a lot of runoff. I do have a spot by the fire pit where the one corner must be low because it drains down a trail that the kids go up and down, so we are experiencing some erosion there. We are thinking about putting in some rocks to step it a little bit. We have also planted grass and it has been a "no-mow" zone on the hill. All the water, when it comes off the house, is going straight into the ground. We are not experiencing any issues, except for the one spot by the fire pit by my neighbor to the north. Some of the tree roots are getting exposed from that and that is just from activity.

Andres added I noticed that there is plenty of vegetation. I was just curious if you have plans to put guttering on the structure.

Gast answered as of right now, no, because of all the trees. You can see in the picture that one of the trees is growing right through the middle of my deck. The old deck was built around it, and we built the new deck around it. The trees are really close to the house and the gutters would be plugged all of the time.

Kovacovich opened for public comment.

No public comment was given.

Kovacovich closed public comment.

Grob made a motion to approve the variance application restricting the footprint dimensions of the proposed addition to 12' x 18'.

Andres seconded the motion that passed 5 – 0.

The Board provided the findings of fact answers for questions 1-4 and adopted the staff report findings of fact answer for question 5.

Findings of Fact

1. Is the variance in harmony with the general purposes and intent of the official controls?
Yes (X) No ()
Why or why not? The current building is less than 1,000 sq. ft. It is reasonable to want a little more living space. The addition adds only about 60 sq. ft. with no increase in impervious surface.
2. Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?
Yes (X) No ()
Why or why not? The addition is appropriate for the size of the cabin.
3. Is the need for a variance due to circumstances unique to the property and not created by the current or prior property owners?
Yes (X) No ()
Why or why not? The property is such that the addition is reasonable, putting it to the left side of the structure, fairly close to the property line, for the addition direction and location makes sense based on the lot size.
4. Will the issuance of the variance maintain the essential character of the locality?
Yes (X) No ()
Why or why not? There is nothing unique about this or out of place for the property.
5. Does the stated practical difficulty involve more than just economic considerations?
Yes (X) No ()
Why or why not? Economics are not cited in the application as a practical difficulty. The application alleges no practical difficulty.

Miscellaneous: Buitenwerf stated the May meeting is looking to be a little bit smaller in terms of the number of variance requests. We do not have any Planning Commission business.

Kovacovich asked Van Kempen has the Board had any discussions about when we may be meeting in-person again and be able to go on site visits together, or is it still too early?

Van Kempen replied no. We have not had any discussion as far as that. I do notice that Hubbard County Covid infections have been spiking. I could ask. We have a Board meeting coming next Tuesday, a week from tomorrow. I could bring up the question and see what my fellow Board members have to say.

Kovacovich added I don't know if we are getting any kind of direction from the State at this time on when they might loosen things up.

Kovacovich mentioned it am noticing that many of the agenda items are not being flagged out. Without the rest of the Board to point things out, I always feel like I am missing things when I don't see the markings. Are other people noticing that we are not getting a lot of clear markings on these proposals?

Andres replied because we all have to come out at different times, I think the applicant tries to document it in their photos, but then we have a two week gap or so that they have to keep these markings up. I only had three applicants present. That two week time gap does not allow the applicant to be on-hand at all locations to give us answers to some of those questions when maybe a stake has been removed, especially in the winter with the snowfall. If they mark something with paint, it is gone once the snow melts. I agree, I have run into the same situations. If we can all go to lot viewal together, even if we drove there separately and meet on the day that we are supposed to, at the time that we are supposed to, we could alleviate that problem.

Buitenwerf answered if you all drove separately, that aspect of the orders would be met, but then we would have to make those viewals part of the hearing again, and offer the public the opportunity to attend. I would have to visit with counsel on whether we would run into issues if we had a large group that would want to be present for a controversial application like we have had in the past.

Grob stated I am not so much concerned about the people not necessarily being there, but what I am not happy with is the quality of the drawings in some of the applications, and more importantly the flags are missing. If there were some way to tell the people when they get it flagged, to make sure that the flags are kept in place until the hearing.

Buitenwerf answered that is an ongoing thing that we continually communicate to people.

Communications:

Adjournment:

Grob made the motion to adjourn.

Andres seconded the motion.

The motion carried unanimously 5 – 0.

The meeting adjourned at 10:00 p.m.

Respectfully submitted,

Staci Lee

Recording Secretary