

HUBBARD COUNTY

Planning Commission/Board of Adjustment Meeting Minutes

6:00 p.m. on Monday, August 21, 2018

Chairman Tom Krueger opened the meeting with the following additional members present: Ken Grob, Ted VanKempen, Tim Johnson and Mark Petersen. Also present was Environmental Services Director Eric Buitenwerf and ex-officio Planning Commission member and County Board Vice-Chair Dan Stacey.

Krueger 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: none

Old Business: None.

New Business:

Minor Subdivision Application by Frank Kruff: Part of the South ½ of Section 23, Township 140, Range 34, Henrietta Township. Parcel 13.23.00500. Applicant is requesting a minor subdivision to divide 179.9 acres into two tracts. A minor subdivision application is required because the required 5 year time period has not passed since the property was previously subdivided by an administrative subdivision.

No applicant was present.

Grob said to Buitenwerf I noted in the notes that the driveway has to be 500' from that creek, do we have to put that down as a condition or is that just controlled by ordinance if we approve the application?

Buitenwerf replied that would be through the Wetland Conservation Act that they would have to comply with their requirements so I don't see that it's the domain of the Subdivision Ordinance to weigh in on that.

Krueger opened for public comment.

No public comment was given.

VanKempen made a motion to approve the minor subdivision.

Grob seconded the motion.

The motion carried unanimously 5 – 0.

Minor Subdivision Application by David and Julie Johnson: Part of the South ½ of the Southeast ¼ of Section 4, Township 143, Range 32, Lakeport Township, Parcel 19.04.02220. Applicants are requesting a minor subdivision to divide 41.28 acres into 3

tracts. A minor subdivision application is required because the required 5 year time period has not passed since the property was previously subdivided by an administrative subdivision.

David Johnson, 25903 420th Street, Guthrie, MN, presented the application. This is a parcel we have been selling five acre tracts off and now a couple of them are under purchase agreement and we are requesting they could be split so we can sell it.

Krueger stated when I first looked at this I was a little bit confused, you are doing two tracts, which are going to include all but the ones you sold?

David Johnson replied tract one is down there on the corner and it's two five acre parcels is one tract going. The second tract is the next five acres to it. And then it's the remainder is where the arrows are across the road there.

Krueger said so all the roads are included in tract two?

David Johnson replied three.

Krueger opened for public comment.

No public comment was given.

VanKempen made a motion to approve the minor subdivision.

Grob seconded the motion.

The motion carried unanimously 5 – 0.

Board of Adjustment:

Approval of Minutes: July 23, 2018

Krueger stated we do have minutes from the last meeting, are there any corrections or additions?

Grob made some corrections to the minutes. On page 6 it should say Johnson asked Thesing how many bedrooms are in your existing home. On page 9, in the first comment from Grob, "shaving facilities" should say "bathing facilities". On page 35, the last comment from Grob, it should state 100' setback from the lake.

Johnson made a motion to approve the minutes with these corrections.

Krueger seconded the motion that carried unanimously 5 – 0.

Old Business: None.

New Business:

Variance Application 25-V-18 by Richard and Candis Kvamme: Part of Government Lot 3, Section 10, Township 141, Range 35, Arago Township on Island Lake, a recreational development lake. Parcel 02.10.01520. Applicants are requesting a variance from Section 702 of the Shoreland Management Ordinance for a proposed addition to a nonconforming residential structure located in the shore impact zone.

Richard and Candis Kvamme, 26427 County Road 89, Park Rapids, MN, presented the application. We are asking to add on a 24'x14' addition to the south side of the existing cabin. It would match the existing foundation of the cabin, in addition to that, since that will go on top of where the current deck and patio are, we would ask to put a deck in front of that on the southwest corner in line with the western most part of the existing cabin.

Krueger said when I was standing in that one corner of where the proposed house and addition will be, it looks like there would be a need for gutters, it would just run straight down to the lake without it. Do you have plans to do that?

Kvamme responded we can do that.

Krueger said it is quite possible that the Board would want to make that a condition.

Kvamme replied that is fine.

Krueger opened for public comment.

No public comment was given.

Krueger closed public comment.

Grob commented they have over two acres, 150' of shoreline, this overall structure is less than 15' and the addition is not particularly large. I think it meets all of the requirements to be in harmony so I would make a recommendation that we would approve the application.

Grob made a motion to approve with the condition that gutters be added to prevent runoff to the lake and to adopt the staff report findings of fact.

VanKempen seconded the motion that 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 cabin is 5' from being out of the shore impact zone which would then allow the proposed addition and lakeside deck to be constructed by permit. The addition will be placed on the side of the cabin and occupy space where a deck and platform currently exist. The proposed deck will not go closer to the water than the existing cabin. The proposed addition is 308 sq. ft. and the existing cabin is 1,016 sq. ft. in size which is reasonable in scale and does not warrant seeing if the cabin's OHW setback can be increased. The cabin is well screened from the lake by a dense cover of trees and understory vegetation.

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 cabin is 1,016 sq. ft. in size and has been used as a seasonal 2nd home to-date. The owners now desire to retire and live year-round at the property. Thus, a 308 sq. ft. addition to the home to provide more functional kitchen and laundry space and then replace the existing deck/platform with a new deck in front of the addition 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 application states the cabin was constructed in 1965 – six years before the Shoreland Ordinance was first adopted. The cabin is located in the shore impact zone (SIZ). The ordinance requires a variance for any addition to a structure located in a SIZ.

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

Yes (X) No ()

Why or why not? The property to the south of this lot is a multi-unit residential development comprised of nine units on 4.6 ac. Most of the cabins in this development are smaller than the applicants' cabin and of a similar or earlier age. The owners of these cabins are largely seasonal. The 1.71 ac. lot immediately to the north of this lot contains a seasonal residence and the next 1.45 ac. lot to the north has a year-round residential status. The homes on these two lots are a bit larger than the applicants' cabin will be post-addition.

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

Yes (X) No ()

Why or why not? Economics were not cited in the application as a difficulty. The difficulty is due to the cabin having been constructed in 1965 before the ordinance took effect at a 45' OHW setback for which the ordinance now requires a variance in order to make any modifications to the structure.

Variance Application 26-V-18 by Mark and Kelly Evans: Part of Government Lot 2, Section 6, Township 141, Range 33, Mantrap Township on Big Mantrap Lake, a recreational development lake. Parcel 20.06.01400. Applicants are requesting a variance from Sections 502.7 and 702 of the Shoreland Management Ordinance for a proposed waterward addition to a nonconforming residential structure that does not meet the 100' ordinary high water mark (OHW) setback from Mantrap Lake or the 150' OHW setback from the unnamed tributary flowing between Big Mantrap and Upper Bottle Lakes and Section 902.2 of the SMO to use fill to bring the lowest floor of the proposed addition three feet above the highest known water level and seasonal high water table.

Kelly Evans, 27264 Island View Drive, Park Rapids, MN, presented the application. I am proposing to add an attached garage with living quarters above it for my mom. My dad passed away a couple years ago and now she enjoys coming to spend the entire summer here. We have been vacationing here since I was five and now it's a time that she can come and all of her brothers and sisters come and my children and hopefully their children soon. I would like to introduce Gary who will talk a little more about the project if you have any questions

Gary Severson, architect with Structures Design in Nisswa, MN, said I have been assisting them with the best way to accomplish what they are trying to do. They have got three bedrooms in the house, but two of them are like 8'x10' and they are really small, and those are the two that are existing. Because we are closer than the 100' setback, we came off the corner of the structure to add it on so that all the new building would be behind the setback. The one thing I did not realize is that from the creek, that there was that much for setback. That is why we started with the variance and then Buitenwerf mentioned that we wanted to make sure that we were 3' above the highest water mark ever, so we had him come out and survey that and that is why we had to get the variance for the engineered fill to make sure that we are going to comply with all the requirements.

Krueger asked what is the reason you couldn't come straight back?

Severson replied we could of but actually the wetland in the back is actually closer than it is on the side. By going out at the corner, it starts to pick up wetland in the back on the other side of that road, where the road right-of-way is. The creek comes in on this side and takes the flow away, but then it weaves back in behind the lot, so that was the reason for it, along with it was really the best place as far as being able to still get a little bit of lake view out of it. The garage that is there now will go away so it will be lessening the impact on the total lot once it is up and built.

Krueger asked Buitenwerf is the required setback from wetlands, or is it from the stream itself?

Buitenwerf replied it is from the creek.

Krueger said it's not from wetlands then?

Buitenwerf replied there is no setback from the wetland, you just can't build in a wetland.

Severson said where the creek runs through there, it is hard to determine exactly how far in to that wetland. When you were out there the other day, you walked all the way over to where the dam is and how it weaves through and saw it was just kind of going where I saw the edge of the property and that is the 70'. When we had Don Umthun out there to design the septic and do soil borings, that is where he determined the edge of the wetland was, so that is where we came up with that number.

Grob stated your house is already reasonably sized, and you want to add substantially more, I think it gets up over 4,000 square feet, plus 1,500-1,800 square feet of deck. Just across the board, your lot is undersized, you need a lot of fill, you are pushing substantially a long ways towards the creek and the setback, and the height of the structure comes

close to the 35' that is required and that usually applies to a 100' setback. You are closer to the lake, you're about 50-60 feet from the lake, usually you expect things to be less high. Is there any other design, thoughts that you could have, because you sort of encroach on about five or six of the nonconformances which makes me personally uneasy. Just overall, the size of your structure, it just seems to be more than your lot would like to be.

Evans added I sensed that when you were out for your visit and I have been thinking about it all week and trying to minimize the impact or the look, which way we could come down. If it would appease the Board and help it look better in your eyes, I would be more than happy to take that top section off altogether and have the roof line so that they slope down and it would be less impactful.

Grob clarified you would take the whole cupola off?

Evans replied yes.

Grob asked do you know what the building height is if that is gone?

Severson said I would have to think what it is. It matches up with the existing height on the structure. All of the new structure is behind the 100' setback from the lake, even the tower.

Evans added to answer your questions we have under 8' ceilings. They are 7 ½, 7 ¾. And then put a standard roof on it. By taking the tower portion off of it all together, it would match the current. If you are on the lake, when you go by on a boat, you don't even see the part that we are adding the garage onto. My primary hardship in wanting to add the garage, aside from being able to accommodate my mom fully, when I come up in the winter by myself, which is a lot of the time, our current stairs are outside and they are icy and now with this new garage I will go into an indoor garage that will go right into my house and I feel it will be a lot safer. Like I said we were out on the boat looking back on the property and we couldn't even see any of the orange tape that I put out for you last week.

Grob added part of your application is to remove that existing garage that is there?

Severson replied we put in there that we could remove that, no problem. And there is more acreage. They have acreage behind.

Evans stated 4.7 acres that is right behind the driveway. When you came down, on the right side of the road and the left side of the road, where the septic is, that is all out land as well. It is just on a different parcel.

Severson added you can see on this drawing, that is where the house is sitting. If you look right there, that is where the acreage is. They have got all the septic designed to go back there for the drainfield. So there isn't anything close to the lake at all. And it got us above the water table very well.

Krueger asked Severson you had mentioned that one of your reasons you can't go off to the side is to give a bedroom a view of the lake. What is the practical difficulty of a bedroom getting a view of the lake?

Severson responded if you had a lake home, wouldn't you rather do it? As long as we are behind the 100', I thought that made logical sense to take advantage of that. That was the practical reason. And the deck on the back is actually the access, if you are in the bedrooms on that end, that you can go down that way. Virtually the basement that is underneath the house right now, the part away from the lake is actually a bomb shelter that was built in there at one time. So it is poured concrete ceilings and walls and the only other access to that basement area is from a small Bilco door on the back side of the structure that takes you down, so that is part of the reason that we came off of that corner so we could connect in and still have an inside staircase to go up into the residence. Right now there is not an inside staircase going into the residence.

Krueger said I was wondering exactly where that Bilco door is that you were talking about.

Severson replied the Bilco door is on the lakeside, it would be in the back, west corner. And that has been there I think since they built the house originally. And it is about three to four steps down from grade to that.

Krueger added here is a diagram, maybe you can point it out.

Severson said it in the upper right hand corner, you can see the door is open there. You can see where the bedrooms on the main floor, there are two little 10'x10' bedrooms, or 8'x10' bedrooms there, it is towards the lakeside right underneath that door. That has been in existence since they built the house. But other than that they have to go upstairs to get down to the basement. And the basement is all basically service.

Evans added that door is frozen in the winter. We can't enter or exit.

Johnson asked how deep is the basement on that existing structure?

Severson replied there is an 8" slab poured concrete and then the basement itself is 6'11".

Johnson asked is there a continuing running pump or something down there?

Severson responded no.

Johnson asked they don't have a water problem?

Severson answered they have never had a water problem on any of it. And actually there is a sump that they did put in on one place in the basement and that has always been dry. Like I said we started by having Umthun come out and do some soil borings so we knew where we were at. And then that is where we started from. So I know that is a dry spot and the water runoff now will be away from the lake and if you notice there is a large ice berm by the lake, the whole way across. So any water coming onto that property is not going to exit towards the lake, no matter where it comes from. Of course when we get eleven inch rains, who knows what you get, but they haven't had any problems. And there are no

water marks in the basement. It was one of the first things I checked to make sure we didn't have water problems.

Petersen asked do you have a grading plan for this lot?

Severson replied no we do not have a grading because we are not looking at changing anything really. It is all pretty much staying the way it is, other than I had to raise that 15". Otherwise I wouldn't of even raised that. Then just your natural 15" of grade so you can drive up in to the garage. That is really all that is changed.

Krueger asked so your top of block is going to match up with the house.

Severson replied right. And like I said, it's got low ceilings so in the garage we can only go with 8' ceilings now that we had to raise that extra 15" in the garage. Originally I had a step or two down because that slab that was in back, that was the OHW. And we had to raise it because of the difference between the OHW, the hundred year high water mark and the highest water mark. We had a surveyor come out and do those so that we knew that we were being accurate. I talked to DNR about it. I have been trying to do my best.

Krueger asked going back to our findings of fact, we have to answer all of them in the positive. Will the issuance of the variance maintain the essential character of the locality? What you are proposing is approximately twice as large as other homes in the area. Can you maybe try to convince us in order to get a yes on that?

Evans replied attaching a garage is the way I look at it. So many of my neighbors on the other side just built above their garage. They all have bedrooms above the garage. They all have bedrooms in their garages that are just detached garages. But what I am doing, because I like to come up all year long especially in the winter, it is so quiet and nice, is attaching the garage. So any one of the cabins in our area, if you attach the garages to the structure, in fact most of them, would be even bigger than mine.

Severson continued if you look at the total square footage and underneath the existing house there really are no living rooms down there right now and the upper level is really all they have. So it isn't like a two story structure that size.

Evans added our basement is only 7' and it's just cement block. It's a bomb shelter. It literally had gas masks and instructional manuals and now we call it a storm shelter.

Krueger opened for public comment.

No public comment was given.

Krueger closed public comment.

VanKempen asked I am still wondering why you couldn't build on the south side of the home, the opposite of the lake side. I know that you're supposed to be 150' away from the creek and it looks like if you did go off the south side of the house that you would be further away than what you are proposing from the creek. Perhaps closer to the wetland, but I don't think the wetland is an issue, it's the creek. It's part of the ordinance that we're trying to find a practical difficulty for. As a Board here we are supposed to be able to

answer these questions affirmatively and it's hard to answer questions one and two to the yes, as to why we need to approve this.

Severson replied the one thing that I heard is that at one time when the wetland is full as a backup, that is what it is there for, that it was almost up to the garage door in that existing garage, it was almost to the back at a certain time, it came up on the road back there. So that was kind of our thought about trying to get it out where it was and get it connected. We just thought that it was less obtrusive in that area and that it gave more absorption area before it would run into the wetland. If we go in that back corner, any of the roofs are going to drain off into that wetland was my consideration anyway, right or wrong.

VanKempen said that is what we would prefer, that any runoff from your roofs would not run toward the lake.

Severson added it doesn't and it won't.

Johnson said if I was to answer findings of number one, the basement isn't living area, it isn't counted as living area, being under 7'. The lot predates the Ordinance-right?

Buitenwerf added I don't know for sure, that would require some title abstract work to say when the lot first arose.

VanKempen stated I would assume that the home was built pre-ordinance since it's so close to the lake.

Krueger said whenever I hear that a lot predates the ordinance, that's when you have a blank lot and you want to build a house on it. That is my own thought on it. We've already got a house there. I don't think that would apply.

Severson added I do have a record of deed here that says it was filed in 1965.

Johnson asked does the edge of that existing house, does that meet the 150' on the creek?

Severson said of the existing house? That is a good question, I don't think so.

Grob added 100' I think it shows here.

Johnson said this is predating the ordinances we are dealing with now.

Grob asked isn't this, one said 100', is that not the indication of what the current distance is to the lake?

Severson replied yeah, in the front there, that is giving the lake setback. Wes Renneberg has a house next door and that's built right in line with this one. In fact, it was two brothers that used to own this property.

Grob asked Johnson were you thinking that the large amount of fill maybe is not necessary?

Johnson added that is exactly where I was going with that.

Grob said that maintains the current level of the current lot. My observation was that, and I realize they try to protect streams with the 150', that stream there is basically all cattails, not a major flow stream. I still think that the construction is large, I don't think it would have a major impact, if any, in terms of that creek, in terms of runoff.

Johnson commented right and the new information saying the water, when it did come up to that existing garage, that is not somewhere I would want to build.

Krueger said if it came up to the garage, it would come up to where they would want to build as presented, don't you think?

Evans added it seeps from behind in the wetland area. Remember when you came down the drive, on the right hand side is the heavy wetland. Severson talks about one time, I am talking about almost every year where that is really heavy water in there. It goes up and under the garage, to the point that when you are in the garage, you know how it looks when cement is wet, that is how it looks in that corner of the garage. Almost to the midpoint of it.

Severson said that area of the lot is the lowest point. It is actually higher on this side. Where we were talking on this, kind of the original plan was to hold it down, about 14" below where we are at now so we wouldn't be doing anything with the grade. But then we had to do that because of the wetland. It used to be above the ordinary high water mark and at that, we were fine where we were and the 15" was to get us up to the highest of record. There is a discrepancy, it used to be the ordinary high water mark was the worst he could do and now it's the highest of record. Because they do have an overflow in the creek right next to them, they are kind of in the spot where any pressure from the lake would go to the wetland on the sides.

Grob asked the current grade is how far above the ordinary high water mark?

Severson said the ground that is there right now? The ground where it is now is at the ordinary high water mark. I kind of figured by the time we poured concrete, and picked up three or four inches, we would be a little bit above that. I wanted to keep the roof down on that part as much as I could and the reason we were considering the tower was we just thought it would be a fun thing to do and because we were behind the setback, behind the 100', we just felt that as long as we kept it under the code we would be fine. That is how it started, right or wrong.

Petersen said to me, that is why I was asking about the grading, I don't see how you can avoid that 3' over that fill, given the water table that I can imagine is there. I think you have to have that, in my opinion, I would want it. That is really all I could add to that without seeing survey shots.

Severson said they are all part of the record, somewhere they're in the record, because I had a surveyor locally come out and shoot them all. And shoot the elevations of the lakes. I wanted to verify because otherwise it's he said, she said.

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

1. The existing garage must be removed.
2. The new addition's height shall not be higher than three feet above the existing house height.

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

Grob seconded the motion that passed 4-1 with Krueger voting nay.

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 new addition structure will meet the 100' setback and because of the lot and the buildings predating our ordinance, we are adding this addition out of the low spot of the lot.

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 basement is not usable for livable space so an addition is reasonable, an attached garage is reasonable. The lot and structure predate the ordinance.

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 lot and structure predate our current ordinance.

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

Yes (X) No ()

Why or why not? It looked like they were mostly made up of seasonal and single family residences.

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

Yes (X) No ()

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

Variance Application 27-V-18 by Richard Thuleen: Lot 3 and part of Lot 2, Block 1, Summer Mountain Estates, Section 26, Township 141, Range 34, Lake Emma Township on Big Sand Lake, a recreational development lake. Parcel 16.71.00300. Part 1: Applicant is requesting to remove the condition placed on Variance 20-V-18. Part 2: Applicant is requesting a variance from Section 503 of the Shoreland Management Ordinance for a proposed addition to a nonconforming structure located in a bluff impact zone.

Richard and Carol Thuleen, 23729 Glory Trail, presented the application.

Thuleen stated we have three changes that we are requesting based on the variance that was approved last month. One is, in the meeting we learned that we would need a variance in order to do a second walkway to our stairs to the lake, so in this variance request we have asked that we be allowed to put a walkway in that would basically come around from the side of our proposed garage to the top of the stairs. The walkway would run parallel to the bluff and it wouldn't run toward the bluff. There would probably be a few stairs right at the steepest part by our walkout. The next part is that we wanted to add 2' to the length of the garage on the driveway side. Just a little more room to possibly put the boat and trailer in there, and then the last request was, we asked to eliminate the 10' no mow section from the top of the bluff. We talked about it at the very end of the meeting last month and it seemed reasonable to me, so I agreed to it. Then I went back and measured it out, staked it out essentially and I found that the 10' no mow section in the area of the house would put the tall grass and vegetation within about 3 ½' of our wood cabin. That poses too much of a fire risk for us. The other thing is that we do walk around the cabin and we don't really want tall grass right there because of tick borne disease and other issues. When I staked it out, I could see that there really isn't a lot of flat area at the top of our bluff. It comes up from the lake and then it goes back down the other way. There is not a big area for ponding, so it's not going to be a lot of water runoff from the bluff and cause an erosion problem, it pretty much runs the other way.

Krueger added when I was out there, I walked the front just to see your existing mowed area, and looking down the slope, there was zero evidence of any erosion at all. My own personal thought is that there is not a need for that restriction from last month's variance.

Thuleen responded I have been mowing the yard for 31 years and the bluff itself, we haven't had any erosion. Sometimes I wear a path walking around there, but as far as the bluff goes, there hasn't been any impact.

Grob said I would agree with Krueger, I think I made the proposal for that condition originally and after going back and looking, clearly there is no signs of erosion on the bluff. You can't really get 10' with the way your deck is now, you could to the left as you look at the lake, but it doesn't look that way on this drawing, but when I looked at it, it looks like it actually slopes back from the bluff, not down the bluff. I think anything we decide to do, I would feel that not adding that condition would be reasonable.

Krueger opened for public comment.

No public comment was given.

Krueger closed public comment.

Grob asked Buitenwerf is the walkway, it's not defined exactly what he's going to do. 3', we don't know if it's pavers or gravel or what it is. Is that problematic? From the staff write-up you indicate that they are entitled to have a walkway like that so it's not something that we should necessarily try to control or manage at this point, it's controlled by the ordinance?

Buitenwerf replied the ordinance allows one access path from the house to the lake per 150' of shoreline, so the variance would be to have this secondary spur that ties into the existing walkway. Mr. Thuleen gave good reasons during the lot viewal as to why he would want that for carrying materials to and from his garage to his boat.

Grob continued so it's not a concern to you or your staff that we don't specify more detail, what the construction materials could be, but that he is allowed the 3'. It's his choice as to what he does.

Buitenwerf answered actually the ordinance allows a sidewalk or walkway to be up to 4' in width, so 3' would be within that.

VanKempen said when I was out there, when you described what the walkway would be used for, I think you would have less erosion on the bluff area, because you would have a tendency to stick to the walkway instead of walking on the grass.

Thuleen agreed I think it would be better for the bluff area because rather than running a path, I have to re-seed that a little bit once and a while, just because I wear it down. If I am taking gas to my boat and stumbling down that bank a little bit because of the walkway. The alternative of course would be to go through the house, where the walkway already exists, but we're not doing that. We think it would be safer for us, for walking and provide the access that we need. We're planning on working with a landscaper as far as just the stair portion of it goes. I talked to Richard at Flying W and he suggested that maybe we put stones into the bank and he would landscape it, but we haven't gotten that far yet.

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

VanKempen seconded the motion that passed 5-0.

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 proposed structure is very similar to the construction presented in the 2004 variance and is a better situation and has no impact on the bluff or the lake.

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 existing structure is 28' x 38' in footprint and a 12' x 20' + 26' x 28' (26' x 40' proposed in 27-V-18) addition is proposed that would add a laundry, bathroom, bedroom, and attached garage.

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 built the house in 1987 which was four years before the bluff impact zone regulations were added to the ordinance. Thus, the fact that the structure is now in a bluff impact zone and a variance is needed to add onto it is a situation that was not created by the landowners.

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

Yes (X) No ()

Why or why not? The locality is made up primarily of seasonal single family residences and a few year-round single family residences some of which are located at similar OHW setbacks and others of which comply with the bluff impact zone setback (the bluff is the same along this stretch of the lakeshore.) The lots are large – ranging from 2.4 to 3.25 ac. in size and are well vegetated so there ought to be little to none aesthetic impact caused by the proposed addition.

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

Yes (X) No ()

Why or why not? Economics were not cited in the application as a difficulty. The difficulty is caused by the house to which the addition would be made having been built in 1987 which was four years before the bluff impact zone language was added to the ordinance. Thus, the house is located in the bluff impact zone and a variance is required in order to add onto it.

Variance Application 28-V-18 by Jim and Jackie Voigt: Lots 25 and 26, Block 1, Pine Beach, Sections 9 and 10, Township 140, Range 33, Nevis Township on Lake Belle Taine, a recreational development lake. Parcels 21.37.02200 and 21.37.02300. Applicants are requesting a variance from Sections 501.3, 502.2 and 506 of the Shoreland Management Ordinance for a proposed second guest cottage that will not comply with the 100' ordinary high water mark structure setback on a sewer lot that does not meet the minimum lot size requirement for a guest cottage.

Jim and Jackie Voigt, 20143 Fine Beach Drive, Nevis, MN, presented the application.

Krueger asked maybe a description of what you are seeking in the variance.

Jim Voigt stated a guest house, a guest bunkhouse.

Krueger clarified a second guest house, is that correct?

Jackie Voigt responded the guest house that is currently there was there when we purchased the property. We have children that come up to the lake to visit us in the Summertime and we do not have enough sleeping quarters for everybody. We have three children and their families that come up during the Summertime. We are requesting that we be allowed to put up a structure for the purposes of housing our children when they are up there. We are not looking to put plumbing in the structure, we just want it as a sleeping quarters.

Krueger said I have a question about why you couldn't go and have this addition made to your home, the existing cabin?

Jackie Voigt replied the existing cabin right now is fairly small, we really don't want to make a lot of additions to it. It's not winterized. We prefer to wait until we can afford to build something and that could be a few years down the road yet.

Petersen added Buitenwerf I think I asked you when we were out there looking at the property if it would be possible for them to add on to the existing bunk house they have there by permit or otherwise. Would that be something they could do without a variance?

Buitenwerf replied yes the bunkhouse is a legal nonconformity and it's below the 700 sq. ft. maximum footprint allowed for such, so that also could be enlarged by permit to that square footage if desired.

Krueger asked how does that idea sound to you?

Jackie Voigt responded we have three children, I don't know if they want to live together. We would have to ask them about that issue. There are three families. One family has three children. Then our daughter is single and she is the one that is hoping to have her own quarters for sleeping. I am not sure, the daughter with three children is the one that has the current bunkhouse. I don't know that our single daughter wants to stay in the current bunkhouse with the three children. She would like a little more privacy.

Krueger said maybe you can help us out, do you think that would answer the practical difficulty question that we have to answer in the affirmative?

Jackie Voigt said I think it is something we would have to discuss with our children and see if they would be open to that idea.

Jim Voigt asked so, it could be a minor connection?

Krueger answered adding on I believe is what they are talking about.

Grob added according to ordinance, your lot does not qualify for any guest cabins. You are grandfathered by what is there and you are proposing to add a second one, which would not be allowed by the ordinance and you are proposing building it closer than 100' to the shore which is also something that is not according to ordinance. The only reasonable way to be in compliance with the ordinance is, according to what Buitenwerf is saying, you could enlarge the current bunkhouse up to the 700 square feet, which is the maximum allowed for a guest cabin. That would be consistent with the requirements, but the fact of

your lot size and the fact that you already have one and you want to build within the setback zone, it's just not reasonable to expect a second bunkhouse or a second guest house.

Jackie Voigt asked so what you are saying is that we probably wouldn't be able to do that, the only way we would be able to add sleeping quarters would be to add onto the bunkhouse?

Grob responded or to the main cabin.

Jim Voigt said so you are saying we wouldn't need a variance then, we can just go get a permit and do it?

Grob answered depends upon what you are asking for. Buitenwerf has to answer that question for you.

Buitenwerf replied it's possible that you can add onto either of those structures with just a permit.

Jackie Voigt clarified the cabin is not reasonable for us to add onto. It was built in the 1940s. It is not winterized, we don't even know if the wiring is up to code. We don't want to put money into that cabin at this point in time.

Jim Voigt added so it would have to be the bunkhouse, if anything.

Krueger said you can go up to 700 sq. ft.

VanKempen said the bunkhouse now is approximately 329 square feet.

Jim Voigt asked so we could go again as much, the same size we have now, we could go again as much?

VanKempen replied yes.

Jim Voigt asked how we connect to it is not fussy, if it's just a three foot on the corner connection? It's attached.

Buitenwerf replied it would have to function as one single, continuous structure.

Jim Voigt asked it can have another entrance, another front door? That much length, you wouldn't want to have just one door on one end? That would not be safe.

Buitenwerf agreed, but it's got to be a single dwelling, it couldn't be partitioned in a way that it could function as two separate spaces.

Jackie Voigt asked did you say it could or couldn't.

Buitenwerf clarified could not. Then you are in the same situation and now you have a duplex guest cottage instead of just a guest cottage.

VanKempen asked would they be able to have a door that they could open and close between two different rooms?

Buitenwerf said yes you are allowed interior doors.

Krueger said perhaps that would solve your problem of the two families.

Krueger opened for public comment.

No public comment was given.

Krueger closed public comment.

VanKempen made a motion to deny the application and adopt the staff report findings of fact.

Krueger seconded the motion that passed 5-0.

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 is 21% shy of the required 30,000 sq. ft. minimum lot area to have a guest cottage and there is already an existing guest cottage on the lot. Also, the requested second guest cottage would not meet the required 100' OHW setback (76' proposed). A permissible option exists for adding habitable space to the property by making an addition to the cabin by permit.

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? The lot already has a guest cottage on it and it is 21% shy of the required 30,000 sq. ft. minimum lot area needed to have a guest cottage. Proposing a second guest cottage that would encroach on the required 100' OHW setback by 24' is not reasonable on this small 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 () No (X)

Why or why not? The lot is 100' wide and 23, 838 sq. ft. in area which is shy of the 30,000 sq. ft. minimum required in order to have a guest cottage. There is an existing guest cottage on the lot that meets the 100' OHW setback. Additional habitable space can be added by permit by either adding onto the existing guest cottage or cabin per Section 702 of the Shoreland Ordinance.

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

Yes () No (X)

Why or why not? The locality is made up of mostly seasonal single family residences with one year-round resident on the adjacent lot to the west of this lot. Neighboring lots are all part of the same plat that was done before the ordinance came into being so the lots now range in width from the original 50' wide lots to combinations thereof that are 100' wide at most. Homes on surrounding lots are of a similar size to the cabin existing on this lot and have similar OHW setbacks. As best can be determined, the neighboring lots do not have guest cottages on them so allowing a second guest cottage on this lot would not fit in with the locality's character.

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

Yes (X) No ()

Why or why not? Economics were not cited in the application as a difficulty. The application does not state any practical difficulty and the applicant bears the burden of proof of showing such.

Variance Application 29-V-18 by Steve Thompson: Part of Government Lot 1, Section 12, Township 140, Range 34, Henrietta Township on Boulder Lake, a recreational development lake. Parcel 13.12.00600. Applicant is requesting a variance from Sections 502.2 and 702 of the Shoreland Management Ordinance for a proposed addition to a nonconforming residence that will increase the structure's road right-of-way setback nonconformity and not comply with the 50' road right-of-way setback.

Shaye Thompson, 21072 County 18, Nevis, MN, and Carter Erickson, 21519 250th Street, Park Rapids, MN, and Eric Munson, 18475 Elmwood Road, Nevis, MN, contractor, presented the application.

Thompson stated what we are basically asking is that our seasonal cabin be turned into a year-round home. We want it to be our full-time residence. Our twelve year old son is now enrolled in the Nevis public school. What we are asking for is basically a variance tonight, to build closer to the road. We would like to add on a garage, a living room, a bedroom and a bathroom and to winterize the existing cabin. We are asking for our variance to be closer to County Road 18. We are approximately adding on 800 sq. ft., so we are looking at approximately 64' from the edge of the tarred road.

Krueger said we did get correspondence from a neighbor who said there are a number of cars, six or seven cars. What are your plans for that, where would the cars go when they come and visit?

Thompson replied we did ask for approval to get a proper driveway. We also do share that easement, but what we are looking at in that picture, we want to widen that all out. As far as there being multiple cars there, that is once in a while, like a holiday. Fourth of July, Labor Day, that type of thing. As soon as we get our driveway put in properly there, we should be able to widen that space quite a bit.

Erickson added I can tell you from my standpoint, having been a guest there, the driveway situation as it's currently configured, is a disaster. There needs to be a new driveway. The steepness, the way it goes around, you can't get cars in and out of that place efficiently. It would be in the public interest to approve a design for a new garage and a new driveway that would be safer for people than what it is. I have moved in and out of it a number of times inconveniently as I would describe it. It's in the public interest to get a new driveway design.

Krueger agreed when we were out there it's definitely in your interest because we had to have a spotter to back up.

Erickson continued we had a time when a storm moved in and we were over there and actually had to put our truck in 4-wheel drive in the middle of the summer to get up that incline. Something that could be done would be helpful to the neighbors and these guys.

Krueger commented I know your driveway has already been approved by MnDOT.

Thompson answered yes.

Krueger continued, but that's going to have an incline up there?

Thompson replied yes and maybe Munson can help out with that a little bit. I think we are going to have to bring in a lot of fill. Maybe Munson can answer that question better than I can. How structurally we would do that.

Munson said we are planning on bringing in fill, if you have been out there you have seen the incline that is on 18. The house is about 3' off the ground right now so we would like to build the garage up about 3' and maintain all of our setbacks.

VanKempen asked is there going to be some kind of turnaround with the cars?

Munson replied you will be able to back out and then pull back out onto 18, that is correct. And what is the setback with the easement when you guys did the driveway? Do you still have to maintain your driveway from 10'? The structure is going to be 10' below our driveway. Right now I am thinking in my mind, backing out and going towards the west, then turning out on 18. But if we can have our driveway closer to the property line, to back out that direction, it might be easier too.

Buitenwerf responded the driveway setback is 10' from a property line.

Munson added so we would have to go to the west.

Krueger asked could you use that existing easement as a backup area?

Munson said that is what I was asking, but I didn't know if it was part of the deal or not.

Thompson replied yes we could.

Krueger said you were talking about safety, it would seem a lot safer to go forward into Highway 18 instead of backing into it.

Erickson commented we're not backing into County Rd 18, we turn around. But if we could use that current easement, that is a no brainer.

Thompson added the easement is definitely something I feel would be a safer way of going about that. That is how I would probably do it. I can't turn around in the driveway as it is. So I back all the way out the easement now.

Petersen asked which way is the turnaround going to go?

Munson responded right now it's going to go to the east if we use the easement. Towards Nevis.

Grob asked you would propose, your garage is to the right as I am looking at this picture and where you make the turn from the easement, your driveway would come straight out from there?

Erickson asked would the turnaround go from the top of the blue corner on that and the driveway would go out the other way, is that right?

Munson replied I don't know how exactly how far we have for this, but the new driveway is going to be right in here to County Rd 18.

Grob asked are you going straight onto 18 or are you going at an angle?

Erickson responded we are pretty much coming straight out on 18.

Grob added it is an awful steep grade. Are you sure you are going to be able to get out of there in the winter time.

Thompson replied that is a concern. That is why I feel that we are going to have to bring in a lot of fill.

Munson continued to raise that whole garage up, that whole addition on the front side, I think we are going to have to.

Erickson added you want to park the cars up taller, right. Not down low.

Munson said I think the tar is actually probably, where the top of our garage slab is to 18, we're probably talking still another 3' of grade. So there is some dirt work that is going to have to go in there.

Thompson added I could still use the easement as well.

Grob added I don't think your variance affects that at all.

Krueger opened for public comment.

Kathryne Szczeck, 21090 County 18, Nevis, 56467, gave public comment. I live in Minneapolis, my address there is 4514 Minneapolis, MN 55412. When you speak about the easement, that is primarily my concern. I own the property directly to the east of the Thompson's. You see that the turquoise line there, that is the easement across my property. When you talk about doing something to the easement, you are talking about on the west side of that line, yes?

Erickson replied yes.

Szczeck continued and as you already mentioned the number of cars there, I am not critical about your entertaining, don't take that away from this, but I am concerned about those cars, mostly trucks and SUVs, I don't want to prohibit you from using the easement because obviously you have that, but I need to be sure that there will be a driveway and to be sure that will exist so you will be able to go in and out on the driveway. I understand it can be crazy on that curve because no one obeys that speed limit there. I understand you could use the easement to go in to the property and the driveway to go out or vice versa. That is just my concern.

Erickson added I would think actually what the building plan is, is that the easement is a secondary out so what is being proposed here is that you will double the capacity of what the driveway and what the existence will be. The easement will be just a secondary situation whereas the driveway and the garage is going to be the primary. So you should get reduced traffic where you are at.

Szczeck added you are also reducing the space where all those cars parked because you are putting that garage in there.

Erickson said it would be equal or double the capacity.

Szczeck asked are you talking a two car garage?

Thompson replied yes.

Erickson said two cars and a pad, so basically what you are doing, is you are doubling the capacity of two cars into a certain space, making it safer and having a secondary out of the easement.

Szczeck added as long as there is no construction or ground moving on my easement then I am good. I just wanted to make sure that driveway is indeed put in and there is no encroachment on the easement.

Grob asked the approval from the County Engineer, there is no specification on where that entrance point is onto 18?

Thompson replied I believe when he came out and spoke to my husband it was marked off.

Grob continued because you have a very long, narrow piece of property. I don't remember what the terrain was, but you could always go parallel to 18 and then come up to it. I can't remember, was there a ditch or anything?

Erickson answered yes there is.

Grob added so you really don't have access going that way.

Erickson replied you might negatively affect the lake if that was the plan. That is the tough part of this piece of property.

Krueger closed public comment.

VanKempen made a motion to approve and adopt the staff report findings of fact for questions 3-5 and the Board provided answers for questions 1 and 2.

Petersen seconded the motion that passed 5-0.

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

Yes (X) No ()

Why or why not? The additional living space is reasonable and having a garage for a year round home is a reasonable use of the property.

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 county highway department has been out there and has approved the driveway. This is a unique lot that has over 435' of lake frontage but because of the 100' setback from the lake and the 50' easement from the road makes it difficult to built by ordinance.

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 100' OHW and 50' road ROW setbacks overlap by at least 20-25' on this lot. The house is located on the deepest portion of the lot which is still only ~146'. The west two-thirds of the lot averages ~45' deep. There is no way to do anything on this lot without a variance of some kind.

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

Yes (X) No ()

Why or why not? The locality is made up of seasonal single family residences on the riparian lots and year-round single family residences on the backlots located on the south side of County 18. The neighboring riparian lots share this lot's lack of depth issue as they are all sandwiched between County 18 and the lake. The homes on the two lots to the east are located at approximately 20-25' OHW setbacks and are about the same size as the existing home on this lot. The next two lake homes to the east are located at OHW setbacks similar to that of the house on this lot and are larger in footprint – similar to that proposed in this variance application. The nearest lake home to the west is ~580' feet away. The homes on the backlots on the south side of County 18 are generally much larger than this house would be if the requested additions are constructed, set back ~130' from the road, and well screened by forested vegetation. This all said, the proposed additions will likely not 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 were not cited in the application as a difficulty. The difficulty is due to the lot being ~146' deep at its deepest point and the 100' OHW and 50' road ROW setbacks overlapping on the entire lot.

Variance Application 30-V-18 by James and Natalie Haley: The North Half of Lot 16, and all of Lots 17 and 18, Block 1, Nam-Ken's Plat of Schmidts Beauty Bay, Section 24, Township 143, Range 32, Hendrickson Township on Gulch Creek, a tributary, and Kabekona Lake, a recreational development lake. Parcel 12.37.01500. Applicants are requesting a variance from Section 502.7 of the Shoreland Management Ordinance for a proposed residence that will not comply with the 150' ordinary high water mark structure setback from Gulch Creek, and from Section 801.2 of the SMO and Article V, Section 1.01 of the Subsurface Sewage Treatment System Ordinance for the proposed residence to not comply with the 20' drainfield setback. Applicants are also requesting to amend the proposed residence's 20' height restriction placed on Variance 48-V-07.

Natalie Haley, 27316 Mallard Dr., Laporte, Hendrickson Township, presented the application. We are requesting a 52' setback from Mulch Creek and a 14' setback from the seepage bed. We are proposing a three bedroom slab on grade home with attached garage. Two story with a 25' structure height, amending a previous variance for a height of 20'.

Krueger asked how long ago was that trailer taken out of there?

Haley replied in the last couple months.

Krueger asked that is what you were using?

Haley responded I think it was on the 4th of July that it came down.

Grob added obviously the big area of concern here is the closeness to the Gulch Creek which is a fairly significant body of water as I understand it. A lot of the encroachment comes from an attached garage. You already have an existing garage that is 35' from the creek. Why do you need another garage if that is the major conflict with this variance?

Haley responded we are planning to retire in this home and that is my husband's dream. I really don't want to be walking across my yard with groceries in the middle of winter. I want to be able to pull right into the garage and go right into the house. The other reasoning I would have for that is we have a very close friend who is in a wheelchair and we want to have access. All of our doorways are wheelchair accessible. We are just thinking ahead to retirement, we don't want to not be able to live there should something like that happen to one of us.

Krueger added it looks like the garage blends into the shape of the house very well.

Haley replied it does.

Krueger continued my thought with the garage too is, what is on the second floor?

Haley responded right now we are using it to store things we took out of our trailer and sleeping in there right now until we have the cabin done.

Krueger said once you have a house there, the lot is nowhere near large enough for a guest cottage, it could not be a guest cottage once you get the house built.

Haley asked the existing garage?

Krueger replied yes.

Haley said it could be I guess.

Krueger clarified according to the ordinance it couldn't be.

Haley replied we aren't planning it to be, we are using it for storage.

VanKempen asked what would you say is the distance from the new home would be from the existing garage?

Haley replied it is kind of hard to tell, about 40'-50', does that look about right?

Johnson said I would guess about 60'.

Haley added it is quite a distance.

Krueger said I know it's a distance and also if the garage she is proposing is pretty nicely tucked into the house, so that part I personally don't have a problem with.

Johnson added a comment on the septic, being that it is going to be a slab on grade, higher than the septic, it is actually being set that way so it can gravity. That is what the existing system is set up for. Encroaching on that drainfield by 6' closer than allowed, I see no problem with that. Even if the septic was to rupture, it is going to go to that lower area.

Petersen asked Johnson do you think we need to make them aware that no formal alternate site has been approved on this lot, is that correct?

Johnson corrected that there has been. There is an updated design by Ed Aletto and he does have that alternate septic site right there. It definitely is in high enough ground, in my definition it's not wetland.

Krueger opened for public comment.

No public comment was given.

Krueger closed public comment.

Johnson said asking for the variance that they are asking for, I don't have a problem with for a few reasons. It's got an ice ridge and a slope up towards the lake from where they're at. It's actually contained by the driveway of any runoff getting to the creek. It's like a berm with the driveway all the way around that entire construction site. It would go to the lower area alongside back into the wetlands.

Krueger added that Julie Kingsley from the SWCD office wanted to make sure that some fill was removed from the wetlands area, has that been done?

Haley responded that has been done.

Johnson made a motion to approve the variance and adopt the staff report findings of fact for questions 4 and 5 and provided answers for questions 1-3.

VanKempen seconded the motion that passed 4-1 with Grob voting nay.

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

Yes (X) No ()

Why or why not? None of the request will do any harm to the Gulch Creek. The perimeter around the structure is bordered by the driveway and ice ridge, preventing any impact on the creek.

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? An attached garage is reasonable in the winter. It is a unique lot which predates the ordinance so it has plenty of high ground and the structure is being built where it needs to be.

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 creation of the lot was done before the Shoreland Ordinance.

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

Yes (X) No ()

Why or why not? This lot is the furthest north lot in an eighteen lot plat that was created before the Shoreland Ordinance was enacted. Most of the lots in the plat possess a similar depth and average 100' wide. That said, most of the residences in the plat average around 90' for OHW setbacks. Most of these lots are seasonal use with one year-round residence a half dozen lots south of the subject lot. The property on the north side of the creek is a 27 ac. tract owned by the State of MN and managed as a wildlife area. The requested 5' roof height increase to a 25' height will still be 10' below the 35' maximum structure height allowed and the 23' decreased creek OHW setback to the proposed house will not be noticeable to the lots to the south or have any deleterious effect(s).

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

Yes (X) No ()

Why or why not? Economics were not cited in the application as a difficulty. The difficulty is caused by the property fronting Kabekona Lake which has a 100' OHW setback and Gulch Creek which has a 150' OHW setback in addition to the lot's small size and most of it consisting of wetlands.

Miscellaneous:

Communications: Buitenwerf said we have got four variance applications submitted for next month. I have not had a chance to look at any of them yet to know how many of them are complete that you will actually end up seeing. Same with one conditional use application. That would be it for the maximum for what the agenda would look like for September.

Adjournment:

Grob made the motion to adjourn.

VanKempen seconded the motion.

The motion carried unanimously 5 – 0.

The meeting adjourned at 7:45 p.m.

Respectfully submitted,

Staci Harvey

Recording Secretary