

HUBBARD COUNTY

Planning Commission/Board of Adjustment Meeting Minutes

6:00 p.m. on Monday, August 23, 2021

Chairman Mike Kovacovich opened the meeting with the following additional members present: Ken Grob, Veronica Andres, Tim Johnson, and Mark Petersen. Also present was Environmental Services Director Eric Buitenwerf.

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: July 26, 2021

Grob made a correction to page 4 of the minutes.

Kovacovich made a motion to approve the minutes as corrected.

Andres seconded the motion that carried unanimously 5 – 0.

Old Business: None.

New Business: None.

Board of Adjustment:

Approval of Minutes: July 26, 2021

Grob made corrections to pages 10 and 15.

Andres made a motion to approve the minutes as corrected.

Petersen seconded the motion that carried unanimously 5 – 0.

Old Business:

Variance Application 22-V-21 by Scot Moores: Part of Gov't Lot 1, Section 1, Township 140, Range 34, Henrietta Township on Boulder Lake, a recreational development lake. Parcel 13.01.02010. Applicant is requesting two variances: Part 1: Sections 502.2 and 704 of the Shoreland Management Ordinance (SMO) to develop a nonconforming lot with a house, detached garage, water-oriented accessory structure, well, and subsurface sewage treatment system where there are not two suitable drainfield sites meeting all setback requirements and the proposed house and garage will not meet the 100' ordinary high water setback and the garage will not meet the 50' road right-of-way setback. Part 2: Section 601 of the SMO for a proposed water-oriented accessory structure to exceed the 48 sq. ft. maximum allowed footprint.

Kovacovich stated Application 22-V-21 by Scot Moores is tabled until next month.

Variance Application 39-V-21 by Ryan and Robin Wall: Part of Gov't Lot 9, Section 1, Township 145, Range 32, Farden Township between Wolf Lake, a recreational development lake and Mud Lake, a natural environment lake. Parcel ID 07.01.02200. Applicants are requesting a variance from Sections 507.1, 704, 902, and 904.6 of the Shoreland Management Ordinance to replace a nonconforming residence with a new, larger structure that will not comply with the 3' vertical separation between the highest known water level and the structure's lowest floor and further exceed the 25% impervious surface area threshold. Also requesting a variance to place fill on the lot in excess of the permissible threshold in order to allow the structure to comply with Section 507.1.

Ryan Wall, 32304 Wolf Lake Road, Cass Lake, MN, presented the application.

Wall stated we would basically demolish all of the existing structures on the lot. This project requires variances from the setbacks from both the lakes, Wolf Lake and Mud Lake, as well as a lot line on one side. We also need to bring in fill to raise the elevation so that we can reuse the existing septic system.

Grob said the stormwater management plan that was submitted is pretty thorough and detailed. I think when we were out there we discussed the fact that when and if construction is done, that the grading in the front would ensure that any of the water on the left half of the lot will definitely be diverted to Outlet A.

Wall replied not the entire area as indicated. The far left side of that, I don't believe I will get to drain across the entire property.

Grob commented when we were there we looked at the topography. That would be pretty easy to do that.

Wall answered a majority of it. I just don't know if I will be able to get 100% of the west edge of the property to get all of the way across. It will cover a majority of that, yes.

Grob stated as I look at the stormwater management plan, Outlets A, B, and C are capable of handling a 100 year event, which is almost six inches in 24 hours.

Wall responded correct.

Kovacovich opened for public comment.

No public comment was given.

Kovacovich closed public comment.

Andres asked have you visited with the Environmental Services Office to see what your options are by removing the current structure and rebuilding by permit? Did you look into that?

Wall answered I did not. As far as the overall size?

Andres clarified to see what you could build by permit at that same location or outside of the shore impact zone, what your options were to build without a variance.

Wall replied I don't think that I can reach the setback from either one of the lakes. It is 150' on Mud Lake and 100' from Wolf Lake.

Andres explained you are still able to rebuild some of your current structure by permit because it is already existing and pre-ordinance. I just didn't know if you checked in with Environmental Services to see what type of options that you had.

Wall responded I did not.

Andres commented with the 175 cubic yards of fill, I did a little research over the weekend. A large dump truck typically carries between 12 and 16 cubic yards. I did an average of 12. That would be 14 dump trucks of dirt to be able to get the vertical separation, and he is still going to be 6" shy of the vertical separation. That is a large amount. I wanted to put that into perspective.

Grob added I think one of the things that came up in the last meeting before we tabled is that there seemed to be sentiment about the height of your structure. You are going to be raising the ground level about 3', and then you want to build it 32'. That would add up to 35'. Typically, 35' is what is expected if you are 100' back from the shore. My sentiment is that reducing the height of the structure, which I don't think would affect your ability to have the bedroom and living area that you want, would be appropriate. I am thinking about 27', plus the 3' that you are adding from fill, would be about 30'. I think that is reasonable.

Wall answered I am okay going with 27'. That will give me a 5/12 pitch on the roof, and I think that is acceptable. I am not adding 3' of fill, it is 14" of fill.

Grob added I thought you were going to bring it up to the level of the mound drainfield, and I thought that was about 2 1/2' above the front yard area.

Wall stated it is about 14", and then the slab will be on top of that. That will give me adequate grading.

Grob continued I would propose a 27' high structure measured from the final grade level.

Kovacovich asked are you saying from the top of the fill, or the top of the slab?

Grob answered from the top of the slab. That would be a condition that I would like to see. There was a prior variance that was acted on, and another variance was allowed back in 2009 that was never acted upon. Is it appropriate for us to ensure that those are no longer valid with this new variance? We have done that in the past some times when there is a variance left open which could be acted on that you really don't want after you approve a new one. Would it be appropriate to add that as a condition?

Buitenwerf replied I would say yes, that would be good practice to specify those prior variances could not be utilized if this variance is granted and acted upon.

Grob stated I think the notes that I have there are 75-74 and 8-V-09.

Johnson added I am definitely in favor of the lift of 14" so that he can get grade for the plumbing to go gravity to the existing tank that he has. That is why he is going to the level

that he is. Also, you will be removing two structures that are encroaching the neighbor's property lines right now, so those will no longer be violations. Those will be gone.

Wall replied correct.

Grob said maybe we should add that as a condition that all current structures will be removed.

Petersen asked Grob, you are looking for 27' from the top of the slab, is that what you said?

Grob agreed.

Petersen continued I am curious if the applicant knows how he is going to achieve that? I think the pitch on that roof is a 9/12, are you just thinking that you can achieve this by keeping that same layout and just cutting that pitch down to 5/12? That should get you what you need.

Wall responded the 5/12 will get me to 26.7' from the top of the slab.

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

1. All existing structures must be removed from the property.
2. The three stormwater basins shown in the application's stormwater management plan (i.e. Outlets A, B, and C) must be constructed to the dimensions shown in the plan and properly maintained.
3. Prior Variance 8-V-09 and Variance 75-74 cannot be acted upon if this Variance 39-V-21 is acted upon.
4. The height of the residential dwelling structure that is the subject of this application shall be 27 feet or less as measured from the top of the foundation slab.

Petersen seconded the motion that passed 5 – 0.

The Board provided answers for the findings of fact questions 1, 2, and 4 and adopted the staff report answers for questions 3 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? The lot size, particularly the depth, and the fact that the lot fronts both Wolf Lake and Mud Lake make it impossible to build a structure that does not need a variance. The applicant has agreed to a reasonable height and size, removing of old structures, and has provided a stormwater management plan.

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 need for the additional 175 cubic yards is needed to give proper flow to the septic system and to achieve the 3' vertical separation.

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 is just barely over 100' wide and ~187' deep and fronts both Wolf Lake and Mud Lake along with having Wolf Lake Road bisect the property east-west along its southern boundary. Multiple setbacks overlap which do not allow any improvements to be placed on the lot without some sort of variance.

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

Yes (X) No ()

Why or why not? The locality is a mix of seasonal residential properties and a resort that are located on lots of varying size ranging from very small and nonconforming like the subject lot to more than twice its size. This would not be out of place with some of the structures already existing.

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 caused by the lot depth only being ~187' and the lot being sandwiched between a recreational development lake with a 100' OHW setback and a natural environment lake with a 150' OHW setback that overlap one another.

New Business:

Variance Application 44-V-21 by John and Adina Moe: Part of Gov't Lot 2, Section 13, Township 141, Range 34, Lake Emma Township on Upper Bottle Lake, a recreational development lake. Parcel 16.13.01300. Applicants are requesting a variance from Sections 502.2 and 904.6 of the Shoreland Management Ordinance for a proposed detached garage to be located within the 10' side lot line setback that will cause the lot to exceed the 25% impervious surface area threshold.

Tom Moe, authorized agent for the applicant, 25617 Indigo Drive, Park Rapids, MN, presented the application.

Moe stated the application is to build a double garage on the lot. You were out there and looked at it, and I think he answered several questions. If you want to go over it again we can.

Kovacovich clarified what your son is asking for is closer to the side boundary than what is allowed. Has he considered trying to move that garage slightly in the other direction, away from that lot line?

Moe answered the septic tank is right there, and he would start to drive over it if you moved it over. It is possible that he could move it a little bit, but the tank was right on the edge

there. He actually would have to curve a little bit the way it is. Besides that, he would have to take down a few more trees. He thought it would be a good idea to save the trees.

Andres added during the lot viewal, I think there was some talk about the height of the structure. The application shows the incorrect height. Can you please clarify the proper height?

Moe replied he just wants the height of the house, which is 13'.

Andres clarified the size of the garage will be 24' x 24' x 13'?

Moe responded correct.

Kovacovich opened for public comment.

Joe Majors, 843 7th Street SW, Wadena, MN, adjacent neighbor to the applicant, gave public comment.

Majors stated the Moe's are great neighbors, but the problem that I have is that there are two variances here. Each of which, the impervious part of it and moving it closer to the line, obviously has an impact on water runoff. Instead of a flat surface we have a slanted surface, and that will create a concentrated flow of water. I am lower than that particular lot is. I am not familiar with what happens to the water or whether or not there is something that would mitigate the possibility of runoff, which would create a problem on my lot. I haven't heard anything about that. We have an ordinance that says they have to be 10' away from the lot line, and now we are moving it half of that distance closer to my lot. That just seems to me that it would create the possibility of runoff unless there is any mitigation possible in order to not create a situation where there would be a problem.

Grob explained we discussed that at lot viewal. The storage shed that exists would be removed, and the gutters on the garage would direct the water into that area where the shed is now. It is a lower elevation than what the garage would be. I think that would address the issue. I would see that as a condition that we would add.

Moe added he agreed to that. That is what he talked about.

Petersen asked if I understood the applicant when I was out there, that is going to be a straight gable roof, is that correct? Which way does the roofline run?

Moe responded it will be as the roofline of the house is right now.

Grob stated perpendicular to the house.

Moe continued he could run the gutter along the side, and the spout would come out the back of the structure.

Kovacovich added my understanding is that he will run the gutter back towards his house and then between the house and garage will direct it towards where that current storage shed is.

Moe explained he is not against turning it the other way, and then running both the gutters down the side if that is more acceptable. He would prefer it this way. He thinks it will look better this way. It is already where they park now, so the increased area is not that much greater, if any, than what it already is considered impervious surface.

Kovacovich closed public comment.

Johnson stated I am okay with the 5' setback being that they were 50' lots created before the ordinance was created.

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

1. The structure dimensions shall be no larger than 24' in length x 24' in width x 13' in height.
2. All runoff from the garage must be directed to the low area where the existing shed is currently located.
3. The existing storage shed must be removed.

Petersen seconded the motion that passed 5 – 0.

The Board adopted the staff report findings of fact.

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 structure will meet all setbacks except for the west side lot line setback. The impervious surface area threshold is being exceeded by 1% which is being mitigated through conditions placed on the application's approval.

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 detached garage in which to park vehicles and store other items is reasonable for a residential lake 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 lot is only 50' wide and 14,891 sq. ft. in size.

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

Yes (X) No ()

Why or why not? The locality is two-thirds seasonal residences and one-third year-round residences. The nearest lots have a similar nonconforming lot width and area and degree of improvements in terms of dwelling and accessory structure sizes. The proposed detached garage will thus not harm the locality's residential 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.

Variance Application 45-V-21 by Tony Hicks: Lot 2, Block 1, Hazel Park, Section 9, Township 140, Range 33, Nevis Township on Lake Belle Taine, a recreational development lake. Parcel 21.57.00200. Applicant is requesting an after-the-fact variance from Sections 502.2 and 801.2 of the Shoreland Management Ordinance and Article V, Section 1.0 of the Subsurface Sewage Treatment System Ordinance for a drainfield to be within the required 20' setback from a dwelling.

Tony Hicks, 24462 200th Street, Nevis, MN, presented the application.

Hicks stated we are applying for an after-the-fact variance to accept the drainfield that was put in in 2019 to be within the 20' setback. Back in 2019 when the previous drainfield failed, we pulled a permit. We used Roger Plumley's company to put in the new drainfield. The permit was approved at that time. There were some conversations earlier this year with Environmental Services about possible remodel options for the cabin. That is when it was discovered that the drainfield was within 20' of the guest cabin.

Kovacovich asked how far is the drainfield from that guest cabin?

Hicks replied within 10' – 20'. Probably right in the middle, 15', as far as we can tell.

Kovacovich continued that guest cottage is on a slab, so we have no issues with sewage potential runoff there.

Hicks answered correct.

Grob added the applicant has identified it as a guest cabin. It is 160' from the ordinary high water mark. It is 576 sq. ft. and has no water or sewer facilities in it, but it is on a lot that is undersized to allow a guest cabin.

Kovacovich opened for public comment.

No public comment was given.

Kovacovich closed public comment.

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

Andres seconded the motion that carried unanimously 5 – 0.

The Board adopted the staff report findings of fact.

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 drainfield meets all other setback requirements and there is limited available space on the lot for a drainfield. As the guest cottage is single story with no below ground living space that could be affected by sewage, granting the variance is in harmony with the ordinance's intent of protecting the lake, terrestrial environment, and public health, safety, and welfare.

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 guest cottage is single story with no below grade living space so having the drainfield 10' from the structure rather than the required 20' will not pose any public health threat. Given the very limited space on the lot and the fact that other once available space is no longer usable as it is where a prior SSTS is located, granting the variance rather than requiring more potential future drainfield space to be used now is reasonable.

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 is narrow at ~110' wide and not very deep at ~275'. Only the rear 1/3 of the lot is flat and conducive to SSTS component installation. The location of existing accessory structures and a large loop driveway significantly limit where a drainfield can be placed.

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

Yes (X) No ()

Why or why not? The locality consists of primarily seasonal residences on the riparian lots and a mixture of seasonal and year-round residences on the backlots located on the south side of 200th Street. As the drainfield is in the ground, it will not harm the locality's residential character whatsoever by being half the required distance from the guest cottage on the lot.

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. The difficulty is caused by the lack of space on the lot in which to locate a drainfield.

Variance Application 46-V-21 by Edgewood Owners Association, Inc.: Edgewood Third Amended CIC Plat 9, Section 29, Township 140, Range 34, Henrietta Township on Long Lake, a recreational development lake. Parcel 13.71.51600. Applicant is requesting a variance from Section 502.2 of the Shoreland Management Ordinance for a proposed deck to be located within the 100' ordinary high water mark structure setback.

Todd Eernisse, authorized agent for Edgewood Owners Association, 17116 Dreamcatcher Drive, Park Rapids, MN, presented the application.

Eernisse stated we are a homeowner's association which has 15 units for private residents. We also give access to the beach to the Edgewood Resort, which is a separate entity. They

have five rental cabins and are located just north of our homeowner's association. We get a lot of people at the beach. It is very crowded. It is a recessed beach with a retaining wall around the outside. What we really want to do is to put in a berm to catch water and runoff from the rains. To reuse that area just above the beach with the berm there, we need to build a platform/deck so that people can still sit up there and overlook the beach and watch the kids in the water, as well as underneath it we are catching the rain water before it flows over and washes out the beach during the heavy storms. Our request is to build that deck over top of the berm.

Kovacovich said I noticed in the application that it also talked about a storage area underneath the deck. Is that correct?

Eernisse replied it is a berm and a drainage pool. We are going to build a 2' high berm so that the water that is running downhill towards the beach itself will run into that berm. It will be a water collection pool. It will keep the water from continuing to flow down, washing the debris and sand from the hillside down on the beach, and from washing the beach out into the lake. It is primarily there for erosion control and then to reclaim the area by putting the deck on top of the berm.

Kovacovich stated I noticed that it appears there is a considerable amount of erosion and materials coming down from well above the proposed location. Have you ever considered mitigation efforts to alleviate those problems from where they are beginning rather than where they are ending?

Eernisse answered yes we have. We have had Hubbard County Soil and Water Conservation District, Touch of Eden, and Flying W. We have had several different proposals. All of it talks to terracing, basically building those berms and those pools. Right now, the first thing that we could gain consensus on with the Board, as well as most of the owners, was to start with that project. I think I hinted to that in the application that we would be coming back with future projects and requests to build additional terracing. It would be nice to start on top and build down, but this is the one that everybody jumped on right away.

Kovacovich stated I have some issues without a plan in front of me for how we would address the total problem in that area, rather than just part of it. My opinion is that the correct place to start is at the top, not at the bottom. So, I believe this could be exasperating some other problems. When you are standing on the beach and you look up, there is a drainage that is rock filled that goes into a barrel. You can look into that barrel and see a lot of materials that have washed into that. That then goes to a pipe at the top of the barrel and then goes directly down to the lake. That barrel, based on the amount of square footage that it is draining, certainly does not address the real problem.

Eernisse replied based on what I did for calculations of square footage of that area, that barrel pipe system basically handles about 1/10 of what you get in a 1" rainfall. We think that this other berm would catch 1,500 gallons in a 1" rainfall. The next stages would be to start the terracing. That would handle it at the additional levels. One thing that we did do at the top, we had Cumber Construction come through and reslope the road to direct the water that is on Dreamcatcher Drive so that it all does start to drain back into the low areas on the west side of the road, as opposed to coming down the hill eastward towards the lake.

That was one step that we have. There was another proposal that was stopped in the spring to try to terrace right at the playground with sand. If we built a retaining wall a little bit higher, we could backfill it with sand so that it would actually soak in there and stop that water from coming down. It is the area in between that we really struggle with, as far as getting agreement with how we are going to flatten it, terrace it, and what kind of structures we would put in there.

Grob clarified the application indicates 1,500 gallons of water is the capacity of the storage area. How much area did you think it was draining to get 1,500 gallons?

Eernisse answered I just calculated the size of the berm, which would be about 32' wide and 2' high, and then because it is on a slope, I took half of that area for the total cubic inches that it is to catch the gallons of water.

Grob continued what amount of area is draining in there? You said a 1" rainfall, but what is the area on which that 1" falls? 1" is not an uncommon rain. If that fills up, where is that water going to go when that berm spills over?

Eernisse replied I did emphasize this with our Home Owners Association that this probably handles about 25% of the rainwater that would come down that hill. That was about 50' wide x 150' downhill that we had for calculating the area. I don't have the papers with me that did the exact calculations.

Grob stated I can envision if it was made for a 1" rainfall that just about every year you are going to spill over and erode away that berm, and it is going to push all that dirt onto your beach.

Eernisse mentioned the berm is going to be made out of concrete. That was in the details of the construction that we would use quikrete to actually construct the 2' high wall. From that we were going to backfill the west side so that it would slow the water down before it crashed against the actual concrete and continued running from there.

Kovacovich opened for public comment.

Betty Larson, 17166 Dreamcatcher Drive, Park Rapids, MN, stated my first comment is that the proposed structure sits directly in front of my home where I live full-time. I have watched a lot of sand go down into that lake through the years. It is not easy to get a homeowner's association to agree on things. There was so much enthusiasm for this berm, and then the idea is that we could place additional berms in the future. This would be the first step into a multi-year project that would really do a lot to protect the environment. The second comment that I have is because the beach is used by the people who rent at the resort, people come down our driveway, and we had a lady with a motorized wheelchair last week. She could get down the driveway, but she couldn't get down the steps. She was a young woman, and she couldn't get down the steps to the beach to watch her kids play. A ramp is part of the plan for the deck, which would be nice for people who are handicapped. We often have elderly people at the resort.

Cindy Crable, 17183 Dreamcatcher Drive, Park Rapids, MN, stated we are a homeowner at Edgewood PUD. My husband is presently handicapped. At this time he cannot go to the

beach, but with the proposed ramp and deck he would be able to go to the beach and enjoy it, and so will so many other people who are handicapped as well.

Kovacovich closed public comment.

Petersen added by the time tonight is over we will have had two applications with some type of stormwater management plan. I am curious what everyone thinks about the idea of asking for one in this situation. To me, it seems like it might be recommended here, but I wanted to see what everyone else thinks about it.

Johnson agreed.

Kovacovich stated I would agree based on the size of the 12 acres and not knowing exactly the boundaries of what is draining where. It would certainly help me make a more informed decision.

Andres agreed. They do have some runoff issues that need to be addressed, and that would be very helpful.

Grob agreed. If this is a first step in an overall plan, if there was an overall stormwater management plan and this was identified as Step 1, I would be much more comfortable. The actual part of this application that I am concerned about is a huge deck 30' from the lake, which is way out of harmony for what would normally be considered reasonable. I am not in favor of adding a structure like that so close to the lake.

Petersen added I am in agreement with you there. Maybe it is a two-part question that we are asking ourselves and posing to the applicant. Are we comfortable with the deck and then the stormwater management plan? For instance, I would ask the applicant what they would think, if we were open to any deck at all, about a reduction in size. Again, just posing some options here for everyone to consider.

Kovacovich stated as far as the deck, it seemed to me that moving it further uphill would allow you to meet the setback for a deck and build by permit, which is always preferred. It seemed like there was ample space. That is part of the conundrum here with two different issues and getting a clean picture.

Buitenwerf clarified the application only has to deal with the deck. The stormwater is definitely an issue, but it is not part of the application. The deck just happens to be proposed to be placed atop the proposed stormwater basin.

Grob asked would a variance be required if they were going to do the construction and move the dirt for that water storage area?

Buitenwerf replied based on the volumes that I saw in the application, no. Given the size of the property, the property would be large enough that the berm could be constructed with a permit.

Grob clarified so we should focus only on the deck?

Buitenwerf agreed.

Andres stated I am in the same situation that you are. During the lot viewal I did notice that there is ample area to move the deck and place it further back. Also, during the lot viewal I observed the two separate areas that you have for the beach. You had approximately 30 chairs in one and 18-20 in another, plus the benches around the fire ring. Currently, it can accommodate about 50 people right at the shore's edge. I am not in favor of the deck on top of the berm as I believe you could place it further up and still have a nice, clear view of the lake, do it by permit, and utilize the ramp as well.

Petersen made a motion to deny the variance application as presented.

Grob seconded the motion that passed 5 – 0.

The Board adopted the staff report findings of fact.

Findings of Fact

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

Yes () No (X)

Why or why not? The property is 12.25 ac. in size, ~775' wide on average, and 500-700' deep with plenty of places where the proposed deck could be constructed by permit in compliance with setbacks. When a permittable alternative exists, no practical difficulty exists and thus a variance ought not to be issued.

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? Placing a 1,024 sq. ft. deck at a 34' OHW setback in the shore impact zone that will create a sizable impervious surface area when the 12.25 ac. property has ample width and depth in which to site a deck in compliance with all setbacks would not be reasonable.

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? There is ample room on this 12.25 ac. property that is 500-700 deep and ~775' wide on average to place the proposed deck in a conforming location with a permit.

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

Yes () No (X)

Why or why not? This residential PUD is large enough that the proposed platform would not be visible to landowners on adjacent lots. However, a 1,024 sq. ft. deck at a 34' OHW setback up on a slope would be very visible to parties recreating on the lake and thus would detract from the lake's shoreline aesthetic 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.

Variance Application 47-V-21 by Michael Mahaffey: Part of Gov't Lot 1, Section 2, Township 140, Range 34, Henrietta Township on Boulder Lake, a recreational development lake. Parcel 13.02.00200. Applicant is requesting a variance from Sections 502.2 and 801.3 of the Shoreland Management Ordinance for a proposed drainfield to be located within the 150' ordinary high water mark setback.

Michael Mahaffey, 29316 Juniper Trail, Nevis, MN, presented the application.

Mahaffey stated I am requesting a variance to the 150' setback for a septic system. I have been advised by the contractors that were out because the limited area that I have that would meet the setback is too far away from the existing tanks to achieve the elevation. Basically, they said the system won't drain back into the tank in the wintertime. The pipes will freeze without putting in multiple lift stations.

Johnson added I definitely agree with the designer in determining the topography to not be very user friendly to be way back there to get drainback.

Kovacovich opened for public comment.

No public comment was given.

Kovacovich closed public comment.

Andres stated I am in support of the application as well. During the lot viewal I noted that the drainfield needed to be in that location.

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

Petersen seconded the motion that passed 5 – 0.

The Board adopted the staff report findings of fact.

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 proposed mound location will still meet and exceed the State 75' OHW setback for drainfields. Requiring the drainfield to meet the setback on this lot would require a much more involved system design that would then be more susceptible to issues that could then pose a greater public health threat than the system proposed. The lot's elevation drops down in the rear to a shallow broad depression that makes drainback from the mound needed due to the soils on the lot to the existing tanks. Part of the issue is the lot's depth and the residence's nonconforming OHW setback that increases the distance between where the tanks are located and where a drainfield can be placed.

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 lot fronts the lake on its west and south sides. Being able to replace the current failing in-ground drainfield with a mound that meets and exceeds the State's 75' minimum OHW drainfield setback is reasonable rather than having to resort to a holding tank or a very expensive system to deal with the elevation challenges involved if the mound was located behind the 150' OHW setback.

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's topography is the reason for needing to allow the drainfield to be located closer to the OHW than the required 150'. The lot dips down toward the rear which makes drainback from the mound to the lift tank challenging.

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

Yes (X) No ()

Why or why not? A mound drainfield is a common accessory feature found on residential lake property. Having the mound on this property be 75' and 125' from the OHW will not harm the locality's residential character whatsoever.

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.

Variance Application 48-V-21 by Vicki Ronkowski: Lots 5 and 6, Crescent Beach, Section 1, Township 145, Range 32, Farden Township on Wolf Lake, a recreational development lake. Parcels 07.39.00300 and 07.01.03200. Applicant is requesting a variance from Sections 702 and 904.5 of the Shoreland Management Ordinance for a proposed replacement of a nonconforming structure with a new structure that will increase the road right-of-way setback nonconformity.

Vicky Ronkowski, 32560 Wolf Lake Road, Cass Lake, MN, and Matt Murray, 304 3rd Street, Bemidji, MN, authorized agent for the applicant, presented the application.

Murray stated Vicky's family is growing, so she is looking for a way to accommodate an addition with her children and grandchildren at the cabin. She is proposing to eliminate all of the existing structures on the property and combine all of the uses in one, single cabin that is proposed to be setback an additional 9' from the ordinary high water mark than the current cabin is. Everything would be condensed into one structure. She is seeking a variance for the setback from the ordinary high water mark, a variance from what is designated as the road right-of-way on a plat, and a variance for impervious surface coverage.

Kovacovich commented we had some discussion about the unique road situation. It is platted in one place, and the road is actually built in another. We had some discussion about the ability to move that structure further from Wolf Lake and still allow enough of a

comfort zone with the platted road. We all think it will never be used, but we don't know what may come in the future. In order to leave yourself a little room, would you be amenable to moving that back 8' or 9'?

Ronkowski answered yes, I would.

Grob clarified that would put it at about 38' or 39' from the ordinary high water mark.

Murray added 38' might be preferable to 39'.

Kovacovich stated let's go with 38' then.

Grob commented my biggest concern is the size of the structure compared to whatever already exists on that lot. Including the guest cabin, if I did the calculations right, it is still over 1,200 sq. ft. The proposed new structure would have over 3,000 sq. ft. of living space and about 700 sq. ft. of garage. That is a pretty large structure for that lot and location. It should be scaled back a little bit in size. One thought that I had was to not have a second floor over the garage, which would save about 700 sq. ft. if I did my calculations properly. There is probably a bedroom there?

Ronkowski answered it is going to be unfinished above the garage.

Grob asked why do you want to build that unfinished space?

Ronkowski replied with the thought that my children or grandchildren would want to finish it at some time.

Murray stated the additional square footage does not increase the impervious surface, so I think the idea was to make the most of the space for the future. The cabin livable area isn't a significant increase as far as the footprint goes. A lot of it is just associated with storage. The overall footprint, when we were looking at other cabins in the area, the overall structure area isn't significantly larger than what is in the area, especially if you go down the beach a little ways.

Johnson asked do you use the current structure seasonally, or year-round?

Ronkowski answered seasonally.

Johnson clarified on this new one, will you be using it year-round?

Ronkowski responded we will have it insulated and able to use it, but I won't live out there year-round.

Johnson asked how often do you pump your septic tank now?

Ronkowski replied it has only been me this summer, but I have three new grandchildren. One time, right now, but when we have been busy it is usually twice. We pump it once now, but I am also going to have two holding tanks now instead of one.

Johnson said it looked like it would be about 3,000 gallons, and the design for what you are building for looks like it will be able to easily do 600 gallons a day. Do you know how much you will be pumping that if you have a family in that house?

Ronkowski answered I don't.

Johnson stated every five days it would be pumped. I am not against holding tanks at all, and I know that you would do everything right for your lake, but in my own opinion it does encourage people to not use the system correctly.

Kovacovich opened for public comment.

No public comment was given.

Kovacovich closed public comment.

Grob mentioned I am still have difficulty supporting this large of a structure on this lot.

Ronkowski stated my architect says it is 1,140 sq. ft. on the main floor.

Grob said that is about what you have now, and you are adding 1,870 on the second floor.

Ronkowski answered according to my architect it is 1,122.

Grob clarified that big space over the garage could become living space at some point, and that calculates out at about 1,800 sq. ft. If you took what you currently have for a house, guest cabin, and carport, that is a little over 1,300 sq. ft. You are building something that is going to be close to 3,800 sq. ft. if you include the garage.

Murray asked you are calculating both stories in that case, right?

Grob explained if you take the footprint, it is an awfully large structure for that lot. What is the current design? How many bedrooms on each floor?

Ronkowski answered three bedrooms on the top floor and a bathroom.

Grob asked that doesn't include that unfinished space over the garage?

Ronkowski responded correct.

Murray stated the livable area on the main floor is about 1,156 sq. ft., and the combined garage/storage area/mechanical room is 714 sq. ft.

Kovacovich asked what is the current footprint of all the structures on the lot?

Grob replied 1,229 sq. ft. including the little guest cottage.

Murray stated I had 1,329 sq. ft.

Kovacovich commented it is 1,329 sq. ft., and you are proposing to go to 1,870 sq. ft.? Personally, I am more concerned with the footprint and what that does for impervious surface rather than if there is livable space above or below it. From my standpoint I am

keened in more on the actual square footage being proposed. Is there a reason for not adding a drainfield? Is there just no room?

Murray explained we did explore options across the road. There is a wetland and creek over there. There isn't really enough room to get the size that would be required across the road.

Kovacovich asked even with a mound system?

Murray replied correct. That was based on the designer's opinion. It is irregular shaped and that contributed to the problem. The setback from the right-of-way did not leave a lot of room that could be used for a drainfield.

Kovacovich commented and which right-of-way do you use?

Petersen asked is what they are proposing for a septic system, with the layout of this home, do you find it reasonable in your opinion?

Johnson answered yes. The holding tank, if they have full capacity use, it would fill in five days and you would be pumping a lot. There are options for different types of systems, even if you have a smaller area, to use what area you could with timed dose systems for small areas. I don't know if that was ever looked at?

Grob stated these are both 1,500 gallon tanks?

Johnson agreed.

Andres asked in the future if they sell the property, if someone decides to live there year-round, it has to be pumped every five days?

Johnson clarified if they use their 600 gallons a day, which it is designed for. That is what four bedrooms is designed for.

Andres continued so possibly in the future we would look at maybe another variance for a septic drainfield somewhere?

Johnson asked Buitenwerf would your office be able to do that administratively, or would that trigger a variance?

Buitenwerf explained that flowage is not a public water, so there wouldn't be a setback from that. My best guess is that you would have to have an above ground mound of some kind and dose it. That would certainly help. It is going to get spendy otherwise.

Johnson added which is going to encourage not using it correctly. It is a concern.

Murray stated I think there is maybe one drainfield on that segment of shoreline right now. Maybe one mound system or two. There are a lot of cabins that are in the same boat. I know there are people living out there year-round.

Johnson mentioned they are not building four bedroom, two-story houses. The one that we just passed tonight has a mound system with an alternate site just down the road from her.

Grob asked is there an issue with running lines underneath the road?

Johnson replied that can be done. The right-of-way might be an issue that we don't know about either.

Kovacovich explained we are struggling with septic, lack of a drainfield, and what that might mean for the future with this size structure being built.

Johnson agreed. That is my hang-up. Did you have a designer look into doing a Type III system?

Murray answered I know the Type III discussion was had to some degree. The biggest thing right now is that her family is going to come and go. They are not going to be living there. I think it was maybe advised that it did not make a lot of sense for what she was needing. That had a reduced size drainfield and then the dosing like you were talking about. I think the recommendation was that for what she was going to be using it for, it didn't seem necessary. Most of the time it is going to be just her, but when there are holidays she wants to be able to accommodate them until they go home again. The demand on a daily basis is just not going to be there right now.

Johnson stated I have a higher priority on that spot for a septic than I do for parking.

Kovacovich commented I think the struggle is not the immediate use, but what happens once we approve this. It is forever. I think we are all struggling with what that forever could mean. If that property gets sold and someone moves in there, we are dealing with a completely different situation than a single person living there with occasional guests at times during the summer.

Ronkowski added I don't know if this matters, but it has been in my family for over 60 years. I have been going there for 60 years myself, and prior to that my grandpa owned it. There is no intention of ever selling it.

Kovacovich explained we can't put a condition on that you can't sell it.

Murray asked maybe there could be a condition that no structure can ever be placed on the area across the road? That way we can ensure space for a septic system there if the use changes.

Johnson stated I would be in favor of that.

Grob mentioned I can easily see that the storage area over the garage could become living space someday with current or future owners. I would not be in favor unless that second story is not approved, or a condition that it could never be used as living space, only storage. If there is already a potential septic system issue, and your family might grow, I would be concerned that it would get beyond what it should be. I am only supportive if there was a condition placed that it can only be used for storage and not living space, or eliminated.

Ronkowski asked could it be insulated, but nothing built there?

Grob clarified it can't be bedrooms. You could use it for storage. Insulation is fine, but it can't be used for any kind of living activity.

Murray asked are we talking about only the portion over the proposed garage?

Grob answered the 714 sq. ft. over the garage.

Kovacovich asked Buitenwerf I am struggling with the lack of drainfield, and I don't know the history of different conditions. Would it be appropriate to ask a designer to come out and tell us exactly what is feasible across that road as far as a drainfield? Without knowing, I am still concerned about long-term here. Is that something that we could ask for before we moved on this request?

Buitenwerf replied certainly. Mr. Larson that did the design for the holding tanks has the appropriate license to evaluate that and provide input on the feasibility for using that area on the other side of the road.

Andres agreed. My suggestion was also that if the cabin was reduced in size, would a drainfield fit anywhere on the lot?

Grob stated I would be supportive of getting a design for what a drainfield could like look across the road, for size and what it could accommodate.

Petersen agreed.

Kovacovich made a motion to table the application to allow the applicant time to submit a written report from a licensed septic system designer as to the feasibility and options for installing a drainfield on the property such as in the grassed area on the southeast side of Wolf Lake Road.

Andres seconded the motion that passed 5 – 0.

Variance Application 49-V-21 by Krista and Robert McBeath: Lot 4, Block B, First Addition to Pine Haven Beach, Section 17, Township 139, Range 34, Hubbard Township on Long Lake, a recreational development lake. Parcel 14.38.40600. Applicants are requesting a variance from Section 702 of the Shoreland Management Ordinance (SMO) for a proposed addition to a nonconforming residence located in the shore impact zone and a variance from Section 801 of the SMO and Article V, Section 1 of the Subsurface Sewage Treatment System Ordinance for a proposed subsurface sewage treatment system to be located within the 10' side lot line setback.

Kelli Wegscheid, 107 West Main Street, Perham, MN, architect and authorized agent for the owners, and John Mason, 512 Park Ave. S., Park Rapids, MN, contractor, presented the application.

Wegscheid stated we have a two-part proposal here. One regarding the addition to the rear of an existing, noncompliant structure. This first portion addresses the existing home as being noncompliant. No work would be done on that portion of the home. The addition is being proposed to the rear of the home. The second part of the request is for a 0' setback

for the septic and drainfield. That is not a definite need, but with this 50' lot, the septic installer requested a little bit of wiggle room and suggested that we add that to the variance application.

Grob commented when we were out there, there was a marking of the property line. Are the property lines survey lines, or are those just a line that the applicant and the neighbor currently assume is the line?

Wegscheid replied we have a difference in what the County is saying the lot area is. When we were out there and measured, they are not quite the same. What we did was to submit the site plan with the smallest lot area option to make sure that everything that we were proposing was compliant regardless if they do get a survey in the future to actually clarify and define those. It is not a line dispute, it is a little bit of area dispute. I am thinking it is in the area of the lakeshore and how far that goes out, but I am not a surveyor.

Grob stated you want a 0' setback from the property line. You are assuming where the property line today is, and that may not be the right one. If you build to a 0' setback, you could be building on the neighbor's property.

Mason stated we are basing that on monuments that we have located.

Wegscheid explained that is for the septic setback only. That does not apply to the structure.

Grob said I am talking about the septic.

Mason added the rear line, closest to the septic field, is an actual monument that is stamped. It is good to go.

Kovacovich opened for public comment.

No public comment was given.

Kovacovich closed public comment.

Wegscheid mentioned I know that the owner's neighbor, Mark and Beth Olson, had emailed a comment to Buitenwerf. I am not sure if I can just read that?

Kovacovich stated we all received the comment.

Kovacovich continued something that concerned me when I was out there is stormwater. With the amount of slope on that lot and the proposal to lay gravel down a considerable ways onto that hillside, I am curious to know what mitigation would take place to prevent that gravel from ending up in the lake when we have a heavy rain.

Wegscheid replied the owners have that very same concern. They are trying to keep the driveway to a minimum. They are trying to allow their elderly parents access, at least part of the way down the hill to park a car and walk down to the new structure addition. That is a very valid concern that they have as well. With the current slope of the land, if we flattened

an area just for a parking spot, I believe we could berm on the edge of that parking spot to hold that runoff so that it is at least reduced with that driveway.

Kovacovich added my other concern is that it is going to require a considerable retaining wall to accomplish this addition, am I correct?

Mason responded not really greater than what the existing retaining wall is. All we are going to do is to remove the existing retaining wall and move it back 24'. It is probably going to be a foot higher than the existing retaining wall.

Wegscheid commented this will also help with runoff.

Mason continued as far as the driveway and the total run towards the water, double pitching that gravel is going to be a major plus to that. Crown it or double pitch it.

Kovacovich asked has there been any survey work in regards to how this is going to be accomplished with the size of the retaining wall, or is it just at this time what we think?

Mason responded no, it will be engineered correctly by Mr. Hacker so we don't have any issues.

Wegscheid added it is not a full height retaining wall, it is only a partial retaining wall, very similar to what is there currently.

Grob asked how can it be similar if the hill is slanted and you are moving back further into the hill, why doesn't it have to be higher?

Mason replied it does.

Wegscheid stated it will be slightly higher, but not a full height retaining wall. I believe it is only 3' right now, and the new one might be 4'.

Grob added the slant on that hill seems that it will be a lot worse than that.

Kovacovich commented without seeing more details, what we are really looking for in my mind is a stormwater management plan for this. That would help me in being able to move forward with this.

Wegscheid added with our winter season coming upon us and trying to get this project built for next spring, would it be reasonable to ask the Board to approve the building portion of this with a condition that we get a stormwater management plan into the County within the next two weeks?

Kovacovich replied I would not be in favor of that myself.

Andres stated I think we would all like to see the plan first before we go forward in approving any designs of the addition and driveway that you are requesting.

Grob added I am supportive of what Kovacovich is saying, especially with that driveway. I have a gravel driveway like this, and it is a disaster every time it rains. If you are going to lay down gravel on that hillside, you are going to have to have a plan. They are not going to

want gravel in that new addition, and that is where it is going to be if there isn't some preplanning for how you are going to handle the water. If you are going to propose a gravel driveway, I am very supportive of a water management plan.

Mason asked how about tar?

Grob responded water is going to run off even faster.

Wegscheid stated currently the owners have a covered carport up at the drive. If we removed this driveway from the plan for the moment to facilitate the addition, and if need be we would come back later for a different proposed driveway scenario. Would the Board be acceptable to remove the driveway currently from this plan and proceed with the addition approval?

Kovacovich repeated I would still like to see a stormwater management plan with that driveway included, unless they are going to take it off the table permanently. That may then become a condition in my mind moving forward, but I am also concerned with this retaining wall and the slope that I saw there. I can't picture where all this water is going on this 50' lot.

Wegscheid added if the driveway is the concern, which it sounds to me that is what the Board is concerned with, I would suggest that we remove that right now from this plan so that the owners would have an option here to continue with their building project. The current house is only 960 sq. ft. and the new addition is even less than that at 720 sq. ft. We are meeting all of the other requirements for setback and the impervious surface coverage. I know other Counties have specific requirements if you are over a certain percentage, you are required to submit a stormwater management plan. There is nothing like that currently with this ordinance, so I would suggest that if we take the driveway off of this variance request. We could address that at a future time.

Kovacovich stated the addition still needs a variance.

Grob mentioned it is in the shore impact zone.

Kovacovich continued cutting into that hill and that drainage is a concern, it is not just the driveway for me. It is also the water management for the entire lot. It is a narrow lot. I would like to know how all that water is going to be handled.

Andres added during the lot viewal I did notice that it appears right now the watershed goes right to the neighbor's property because of the topography. Most of it goes there, and I definitely do not want to create something that is going to cause even more water to go onto their property. I am definitely in favor of the stormwater management plan as well. I understand you wanting to get something right away for this with the possibility of removing the driveway, but I still think with the addition we still need a stormwater management plan.

Johnson agreed.

Petersen asked whether we call it a stormwater management plan or what I used to refer to as a grading plan or a certificate of survey showing what you are going to do with the water. I am not so concerned about the additional height in the retaining wall because I think that

water is coming anyway, it is what you are going to do with it once it gets there. Nothing on this drawing shows me where it is going or going to go. It would be advantageous for us to have that so that we know what you are planning there and where you are going to put that water. I know it is coming down the hill. As far as the driveway, if you were going to keep it, then you would need to show mitigation there for that. If you take it off, we still have water coming down, where are you going to run it?

Grob added when I was there I asked about where the water goes now. I think the answer was that they just bought the property, and they didn't know where the water goes. It was hard to tell, but I think just to protect the people themselves and to make sure we understand what is going to happen.

Mason replied I agree that we need to figure out where it is going to go. Krista did see the rain and watched the water run down the neighbor's tarred driveway, hit the planter box, and run down towards the lake. On their side she did look where theirs was going, and it was absorbing into the earth quite well. With the impervious surface of the driveway, then yes, we need to do something with that water.

Grob asked if we wanted to put a 2' setback on the drainfield and 5' on the tank, would that be a big problem? My concern is having you build something right on the property line.

Mason replied we can't base it on the monuments without getting it surveyed. We will do the setback from the line, 2' and 5'?

Grob said I would be pushing to give a little space there.

Kovacovich made a motion to table the variance application until either a stormwater management plan is submitted for the property (if the proposed driveway is to remain part of the long-range plan) or if the proposed driveway is removed from the long-range plan, a certificate of survey that includes a grading plan showing where the stormwater will go and how it will be treated is submitted.

Petersen seconded the motion that passed 5 – 0.

Miscellaneous:

Communications: Buitenwerf stated the County Board took action on the proposed Amendment 20 to the Shoreland Management Ordinance last Tuesday and adopted that. It would take effect on publication with that meeting's minutes which is slated for Saturday, September 11th, other than the short-term rental content which would take effect on May 1st of 2022. That matter is finally concluded other than the administrative logistics to get ready for issuing those licenses and answering questions that are going to be coming.

Kovacovich asked have they addressed your staffing needs?

Buitenwerf replied right now it is in the budget for an additional staff person, and the Board is very supportive of that verbally. I am not sure when the action to that will be taken, but it is looking promising in that way.

Buitenwerf stated the application deadline for the September meeting is a week from today, so there is still time for additional applications to roll in.

Adjournment:

Grob made the motion to adjourn.

Johnson seconded the motion.

The motion carried unanimously 5 – 0.

The meeting adjourned at 7:55 p.m.

Respectfully submitted,

Staci Lee

Recording Secretary