

HUBBARD COUNTY

Planning Commission/Board of Adjustment Meeting Minutes

6:00 p.m. on Monday, December 17, 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: November 26, 2018.

Krueger made the correction that Petersen started the November meeting and that the vote to approve the October minutes was 3-0 and not 5-0.

VanKempen made a motion to approve the minutes with Krueger's corrections.

Grob seconded the motion that carried unanimously 5 – 0.

Old Business: None.

New Business:

Shoreland Management Ordinance Amendment Application by Shawn Morrill:

Proposing the addition of a marina use on general development classified lakes in Section 401, Table 1 of the Shoreland Management Ordinance.

Shawn Morrill, 38 Westbury Drive, Sound Beach, NY 11789, presented the application.

Krueger asked Buitenwerf the definition of a marina. We have some planned unit developments with a centralized dock system that have numerous slips on them. What is defined as a marina?

Buitenwerf replied that can vary depending on what definition you would select. In general, it would be a use that is consisting of dock slips available for watercraft on the shoreline and it may or may not be linked to any particular landward use. The slips would be available for lease/rent to a party that wouldn't be necessarily tied to any particular property.

Krueger said in a planned unit development they are tied to a particular property.

Buitenwerf answered correct.

Krueger clarified we are not considering any kind of conditional use permit, just a change to the Ordinance tonight, correct?

Buitenwerf replied yes.

Petersen asked if the applicant could give a description of what he is looking to do.

Morrill stated it is a piece of property that my dad has given to myself and my sisters. It has been in my family since my grandfather's grandfather. My sisters and I need to do something on this property to create a little bit of income to keep it in the family name going forward. We have always talked about having docks for people to come and park their boats on. My father is still with us, but now it is up to us to try to get something going forward. I don't want to dredge anything out. I don't want to put a harbor in. I just want a dock system off the shore and put ten boats on the port side and ten boats on the starboard side and see how that goes. That is what I would like to do.

Petersen asked I am wondering how far out into the water are you proposing this dock. I have not been at the site so I don't know what it is like and what the water depth is there.

Morrill answered I am not sure of the depth, but I do know a lot of times we have the family dock where I want to put this other dock. I have never hit the bottom. We have a lot of weeds and I would have to stop and pull that off, but we never hit sand. We were out about 32' with the other dock. At that level away from the shoreline it was good for an outboard motor and a fishing boat with no problems.

Petersen asked you said that was 32'?

Morrill replied we had a 16' section and another 16' section and we rolled them out and that was our dock. We parked at both ends and my cousins had boats closer to the shoreland than our boats were at.

Petersen asked do you have any idea what you would need to accommodate the parking spots you are looking for if you were allowed to do this, as far as length out from the shore?

Morrill answered not exactly. I am thinking somewhere around 80'.

Grob said you are asking for us to consider an amendment for a marina, but you are talking like it is merely a docking structure. Water marinas can sell fuel, have services, they need parking. This is merely a docking marina?

Morrill replied yes sir.

Grob asked is it your intent to make it open to the public to docking or only to serve the RV park that you are potentially thinking about?

Morrill replied public. I don't want to say no to anyone who has a boat and wants to stay in the area and use those waters. If there is a slip available, I want to say yes to that person.

Grob asked Buitenwerf would that qualify it as a controlled access lot if it is open completely to the public?

Buitenwerf responded no, a controlled access lot is where you are giving specific legal access to a non-riparian lot for use of a water body. A marina doesn't involve conveying legal access rights to a back lot.

Krueger asked Buitenwerf when you hear the term general development lake, what is the intent of that? Does that mean something like a marina is the intent of it?

Buitenwerf answered the State has criteria that were used to determine what is a general development lake. Reading the management goals and objectives for a general development lake from the Shoreland Ordinance states that, "management district is established to provide minimum regulations in areas presently developed as high density, multiple use areas; and to provide guidance for future growth of commercial and industrial establishments which require locations on protected waters". I can certainly pull up the State Shoreland Rules Statement of Need and Reasonableness which goes into much greater detail as to the criteria they use to determine the classifications of water bodies and how they use those to filter them against the existing water within the State and where they were developed at the time that the rules were established and how that was used as the basis for what classifications were assigned.

Krueger said it looks to me like from that statement there is not very intense regulation then, even allowing for industrial establishments which require locations on protected waters.

Grob added for the record, I would like to make sure everybody understands that this little section of Kabekona Bay, which is about a 1/5th of Kabekona Bay, is the only general development lake in Hubbard County and therefore an amendment to this effect would in fact only be enabling something to happen at this point on the lake. I think if you look at the property layouts, this particular piece of property belonging somewhere else is the only one that would apply. Basically if we were to do this amendment, you would be enabling one parcel in all of Hubbard County to qualify. The second thing I have is you talk about an RV park. Where or what is your intention with that?

Morrill answered that is going to be on another piece of property, adjacent to Government Lot 10. It is 40 acres. It is a proposal right now. I spoke with some other people concerning that and they said that particular piece of property, the land use is ok. We can do that on the land.

Grob asked would you expect that some of the people in that RV park to be the customers for your marina?

Morrill replied yes, without a doubt.

Grob continued would you describe the piece of property, and access to the lake through that property, where you are thinking about the marina?

Morrill answered we have a road that goes down from the house to the lake.

Grob added it looks to me like that is primarily all wetland.

Morrill said the road has been there for as long as I have been here. My dad had it put in way back in the day.

Grob mentioned it looks like the road is on the adjoining property and not your property. If you were to put in a marina, it looks like there is a considerable distance between any high spots to access the edge of the lake which requires approval under the Wetland Conservation Act and DNR approval. Access could be over some kind of a boardwalk. I don't know how long that distance is, but it is probably a couple hundred feet from that one small highland. How would you possibly plan for people to have any access from land and if they park their boats, to get off of the docks and get out to Highway 38? You would have to fill in wetlands. I don't understand how it is even possible given the impact to the wetlands that are there.

Morrill replied there will be no launching of boats on the dock system. There is a public launch maybe a mile away. That is where everyone would launch their boats and drive around and tie up at the dock. When they want to walk down and take their boat out, they would be parked down at the end of "Morrill landing strip". There is plenty of room to park on that and walk down the road that has been there for over 56 years.

Grob asked you would place a marina right at the property line with the Bailey's Resort?

Morrill responded no, I would go to the left. We have 660' of shoreline. So we would take the road, which is right on the property line and it might be on Mr. Pitt's property.

Grob questioned how would people get down there?

Morrill answered it is less than a ¼ mile, they would walk. It's not going to be right on the property line, it would be to the left some. At one point in the late '60s and early '70s, my dad cleared the whole beachfront and brought in white sand and it was 660' of beach. Time and nature took over and now we have a berm along that same length. I would like to make it 6' level and go around the whole berm and make it 6' wide. Down a stretch from the corner of our property, Bailey's and ours, I would like to put the dock.

Grob asked do you think people are going to find it convenient?

Morrill responded the two representatives that I met down there, one from the Soil and Water and from the DNR said they would have no problem with that. That was October 10th.

Petersen said am I understanding that you have had input from the DNR about this project and you have been given a green light to go ahead?

Morrill replied I can't say a green light. I spoke with him in 2013. We had some communication back and forth.

Petersen asked do you have a name of who you spoke with?

Morrill answered I believe Darrin. At that time I explained what I envisioned. It was just a thought back then. We went back and forth with correspondence. He said according to our regulations you would be able to put up the six 100' docks, one for each 100'.

Krueger opened for public comment.

Darrin Hoverson, MN DNR, I wanted to be here tonight to help clarify a few things for the Board. If you guys are interested in any items associated with the project conversations that Mr. Morrill and I had in the past, and I know he was just out there again more recently with the Soil and Water Conservation District, but I don't believe anybody from the DNR was out there with him. For the most part, the DNR looks at understanding general development lakes. Leech Lake generally has an allowance for marinas. It is a very large lake. Speaking with Mr. Morrill a number of years ago, the conversation was brought up. The DNR regulates once you hit seven or more rented slips. That is when a DNR permit is needed. Up to that point, no DNR permit is needed, but as I spoke to Mr. Morrill, you would need to speak to Environmental Services to determine if a permit is needed. My understanding is that it wasn't a currently allowed use. Doug Schultz from the Walker Fisheries office got to know this as well and wanted to provide some of the information that is up on your screen right now. There are some resource concerns. Putting a marina in the soft sediment and the wild rice would cause disturbance and likely high potential for musky spawning areas. Those are just some resource concerns. The allowance for marinas on general development lakes is not something the DNR has blanketly said no. We actually wouldn't say that, but in a case like this, this is a smaller fraction of Leech Lake where there are multiple marinas and very large mooring facilities on the lake currently. I am here generally if you have questions about where the DNR is. We haven't fully reviewed Mr. Morrill's project. I think what I told him at the time, up to six slips would not need a permit from the DNR. Anything greater than six that are going to be rented to the public from a marina, normally we consider a marina as rental to non-riparian property owners. We had a PUD, a resort, we don't want to get into managing resorts that are renting slips and renting a cabin. It is for non-riparian property owners that we normally consider a marina. I will be here to take some questions if you do have them.

Krueger asked even though Leech Lake is a GD lake, if it were possible to zone Leech Lake into areas where you don't want to develop, do you think this would be an area that you would prefer to be left alone?

Hoverson responded that is not the question in front of us, the question is the marina use on a GD lake. Bailey's could put a marina out in front of theirs if this went forward. Not just this one property, at least in my reviewing of the request that is in front of you for amendment right now. Is the Morrill property one that is going to be more disturbing than potentially a portion of Bailey's? Yes. Are there concerns there that we have verified? The points that we have here on the screen are chara beds and those are real indicative of where we know some of these musky spawning areas are as well as perch spawning. Again, that wild rice can be very sensitive to boat disturbance in the spring, but much of Moonlight Bay in Cass County has similar type developments in these shallow wild rice areas. No, we haven't taken a specific standing on Mr. Morrill's project yet.

Grob asked for a dock with six slips or less, the DNR would not approve it?

Hoverson clarified the DNR would not need a permit; it would be an unpermitted activity. And for a marina under State Rule 6115 that says there has to be ancillary commercial facilities associated with a marina. In this case it would still likely be parking and access.

Others would be gas service, a boat ramp, a number of different services that may be provided in a marina like facility. It is a commercial use versus a residential or planned unit development.

Grob asked your comment about Bailey's?

Hoverson clarified I am saying if an amendment was to be passed to allow marina facilities to non-riparian property owners for rental on the lakeshore, it wouldn't be only this property. Your ordinance doesn't restrict commercial and non-commercial uses. Essentially you are allowing the use to be put on any property.

Grob added Bailey's already have a little cove.

Hoverson continued I can tell you that marina facilities are being requested in numerous locations in the state because of the limited amount of shoreline out there. Off shoreland RV parks are becoming more and more prevalent. Accesses to lakeshore, people are becoming more creative. I have one on Gull Lake for a 60 slip marina right now. There is a need for it and for the DNR to determine if it is an allowable use; it has to meet State Statute which is different than the Ordinance. Any project Mr. Morrill would put forward, it would need to meet all the criteria of your Ordinance and any conditions as well as DNR restrictions and allowances. Local government decision does not preclude a decision for approval from the State of Minnesota.

VanKempen said I have a study here that was done by the DNR and they have all of Kabekona Bay as a sensitive lakeshore area. You mentioned there are other marinas on Leech Lake, do you know if any of them are in sensitive lakeshore areas?

Hoverson replied yes. Marinas or mooring facilities associated with larger resorts, yes.

Johnson asked would most of them predate the Ordinance?

Hoverson replied most but not all of them.

Johnson questioned where would the DNR specifically make the call between when it is considered the bay and when it is Kabekona River?

Hoverson answered that would be a questions where I would go out with Environmental Services staff and Soil and Water Conservation District and we would make a determination on where the ordinary high is, what would be considered wetland, above and below the ordinary high and Environmental Services jurisdiction. It hasn't been determined. There is an ice ridge there, so some realistic idea of where the lake is and where the river is. There is lake, river, and then WCA wetlands somewhere in there.

Johnson added this might not even qualify because it is in the river, which is a different classification.

Hoverson said the project as proposed wouldn't be in the Kabekona River. From the southeast corner, along the ice ridge to where the river comes out; that I can tell you is Leech Lake. Also with a DNR permit, any type of mooring facility and a marina that is approved by the DNR would need to be bound by the side lot lines as extended into the

lake. It's not always really clear, but boundaries prevent your property from interfering with other adjacent riparian properties uses. Mr. Morrill has said his intention is to go northeast of the shoreline. That is heavily wild rice and very shallow and those are the primary concerns our fish and wildlife staff have brought up.

Grob added I want to pull some things from the DNR report that we received; this area of Kabekona Lake is a very sensitive area. Loon nesting, ice ridge, soft bottom, lots of emergent and submerged vegetation, spawning grounds for muskies, shallow, wild rice, mink frogs, all kinds of environmental issues in that little area of the lake. Would the DNR really consider allowing this major disruption by permitting a marina?

Hoverson responded I cannot prejudge any permit request in front of me. The DNR would have significant concerns; it is a shallow wild rice bed. At minimum there is going to be needed permits for aquatic plant management there that can restrict where this can be if it was to be granted. If Mr. Morrill would like to put up his own docking system, up to six, and rent those out; the DNR wouldn't require a mooring facility for that. You as a Board can determine what restrictions could be there. An item I continue to find difficult to identify is how to determine the number of allowable slips? But yes the DNR has significant concerns about a large mooring facility in this shallow area that has potential wild rice disturbance and potential fish habitat disturbance.

Morrill asked Hoverson (referring to a document submitted by the DNR Fisheries) what do the yellow dots represent?

Hoverson replied those are a chara species of macro algae. It is the plant you need for muskie spawning. They are highly susceptible to sedimentation on top of them and suffocating them. On Leech Lake we have a number of locations where the DNR has made an effort to protect muskie spawning grounds. This area has been identified as a potential area, but has not been documented as a known muskie spawning area.

Morrill added where I proposed this dock, there are no yellow dots.

Hoverson responded that is likely because it is inundated with wild rice. It doesn't mean there isn't some chara.

Grob said thank you for the clarification, where you see the dots, that is the point they tested and said there is chara there, but you can expect that whole bottom all around those areas to have chara.

Hoverson agreed. The deeper part of the lake, you aren't going to see those chara beds. It is the intermittent depths that you are going to find it. The north shore of Kabekona, it is the muck bottom is what is driving a lot of the wild rice production up there.

Morrill asked where the road meets the bay; at one point it was a white sandy beach for 200'. If you go out there in the spring and clear a little area, you will find white sand. There was no muck in there.

Hoverson continued much of the bed of Leech Lake is sand. Underneath much of the muck, you don't have to go very far, and you are going to find a bottom of sand. You

transition from sand off from there, but there is some depth of muck and organic material primarily.

Sharon Natzel, 13623 County 20, Park Rapids, MN, said I am concerned because I heard there was only one lake that was general development and when I was doing research I thought that maybe Steamboat was, but I may be mistaken. (The Board indicated that Steamboat Lake is not a general development lake.)

Steve DeKoster, Log Home Drive on Lake Benedict, stated I am here representing many of my neighbors on Lake Benedict and numerous people on this portion of Kabekona Bay. We are all opposed to this project. I don't know how many of you have been up on that river. I have fished muskies there for 40 years and I know they go up that river, I have seen them in that river. People are going to moor their boats in there and start them up and tear all of those weeds. I have seen weeds all over Leech Lake disappear. If you ask some of the guides up here, this is prime musky fishing. You don't need a lot of boats running around or there won't be any fish there if they do. My feeling about the river is that it should be only allowed for canoes or motorless traffic. What is going to happen with all these boats? They are going to tear all this up or they are going to come down this river and come into Benedict Lake and tear around in there, which we are really opposed to. We have a fairly good investment in our shoreline and managing it. The boat landing is right on the river. It has room for 6, 7, 8 trailers and it is in the river. There is wild rice all along that. We try to go slow. We have guys coming in there breaking loose bogs. I am really concerned about that river and the whole part of Kabekona Bay. If you have ever been up the river far enough, swans are in there all the time in the spring, lots of ducks, I know there are loon nests up in there. My feeling is to call it Leech Lake is a little bit of a stretch in my mind. It should be a Kabekona Lake Jr.

Bill Kobi, Log Home Drive on Lake Benedict, said I have 600' on the south shore and we are concerned about Benedict Lake and the channels and the floating bog. Every year we have bogs break loose in there and it is usually people who don't pay attention to the speed limit when trying to go through the channel.

Written Public Comment Received

Opposed to Application

- Dr. Steve DeKoster, email
- Keith Karlan, 2443 SW Brookhaven Lane, Topeka, KS 66614, letter
- Ineke Leer, Silver Springs Lane NW, email
- Brett Fish, 1152 Hollybrook Drive, Wayzata, MN 55391, letter
- Sharon Natzel, email

Krueger closed public comment.

Johnson added after listening to Mr. Hoverson, I don't think we have any control since we don't have commercial and residential zoning. Every one of those lots can apply for a marina. I don't think it is so much the issue of Mr. Morrill's land as it is the rest and the boat traffic, density and the negative impact that marinas would cause on the environment there.

Krueger said there are already numerous marinas on Leech Lake and every one of them can access just as they said.

Johnson replied there are numerous marinas on there, but the boaters from them are out on Leech Lake, they are not on this end of the lake.

Krueger added, but they can get here, can't they?

Johnson agreed they could get there, but they don't yet.

VanKempen stated I just want to give my opinion that I am not in favor of marinas, definitely not on natural environment lakes or recreational development lakes. This is unique because it is our only general development lake. After finding out more information, along with what the DNR has provided and letters that we have gotten on this particular application, I just think if we allow it, then how do we limit it?

Krueger added when you have a lake that is classified GD, you can have marinas, but then maybe on that same lake there could be an area on the lake that you shouldn't have a marina. That is kind of what I am seeing right here. How do you control that?

VanKempen said if we did allow marinas on this lake, because it is our only general development lake, having not seen the site personally, but with aerial photos and the information that the DNR has provided, I think there would be better areas on the lake that could support a marina.

Grob added I am supportive of VanKempen's view. This is a very small portion of one lake for which we would have a use in Hubbard County and all with the information, it just doesn't seem sensible for us to potentially enable a marina to be in existence.

Petersen said to me we are really being asked to consider your property, even though we would be opening it up to more if we approve this. I am looking at the last page of the report the DNR provided to us. I am going to read this sentence in the middle of the paragraph, "The substrates would be readily re-suspended by increased watercraft use, and direct impacts to wild rice would be unavoidable and un-mitigatable if the proposed project were approved." To me that say all that I want to know about whether I am in favor of this particular project that we are being asked to consider here. I am not leaning towards approving this myself.

Krueger commented if we were doing an entire lake that is classified GD, I would be leaning towards a marina, but I am agreeing with you guys too.

Grob made a motion to recommend a marina use not be entertained on general development lakes.

Petersen seconded the motion that carried unanimously 5-0.

Board of Adjustment:

Approval of Minutes: November 26, 2018

VanKempen made a motion to approve the minutes as presented.

Petersen seconded the motion that carried unanimously 5 – 0.

New Business:

Request to further table Variance Application 24-V-18 by Tim and Nikki Clancy:
Applicants are requesting that Variance Application 24-V-18 be tabled until the spring of 2019 or when the existing snow cover is gone.

Tim and Nikki Clancy, 26333 Icon Drive, Park Rapids, MN, presented the request.

Nikki Clancy asked can I request a clarification on something? I was doing some calculations this afternoon and I would like to know how our lot area is figured. How do they figure a lot size?

Buitenwerf replied for purposed of the impervious surface calculation, the lot size is calculated by the GIS tax parcel map.

Nikki Clancy asked may I present our proposed 2018 property taxes, only because I am disagreeing with our lot area that you have calculated out at 124,541 sq. ft. If you take 4.89 acres, it is a different calculation 213,000 sq. ft. I was doing these calculations this afternoon and it just came up. Your proposed 124,541 sq. ft only comes out to 2.89 acres. I just need that clarified before we should move forward with anything.

Krueger stated that would change a number of conditions.

Nikki Clancy replied we wouldn't need any variances and we are dropping the after-the-fact variance.

Buitenwerf responded I just calculated the area roughly using the measure tool on the GIS, taking the perimeter of the property in question. You can see the area of the square feet is right in line with the number that was mentioned.

Nikki Clancy said why does it say 4.89 acres?

Buitenwerf continued at the bottom of the computer screen you can see the area field. The 124,541.7 sq. ft. is the area within this parcel that the GIS calculates to be the area of that parcel. The 4.89 acres in the Tax Acres field has nothing to do with the GIS area calculation. That is a field that is old data from the Assessor's Office that they do not ever claim is accurate. If a land owner disagrees with that number and provides a certificate of survey showing what the area of the property is, then the Assessor's Office will change that figure, but until they receive more accurate information in the form of a certificate of survey, they do not modify this value.

Nikki Clancy added that would be another reason that I would like it tabled until spring so we can get it resolved. One more is Buitenwerf calculated that the County Road access driveway is 3,120 sq. ft. in his new calculations in November when he presented this new

number to us. I am not agreeing with that, it is not a driveway. There is no impervious surface on there. It is a cart pathway, but it is all drainfield back there. We can't drive on it, we can't park on it. There are vehicles parked on there, but it's not an access for any of our customers to drive in or out of. I am disagreeing with that calculation. I am disagreeing with the motel and proposed parking area. He has is calculated at 7,830 sq. ft and I have 5,930 sq. ft. with my calculations. That is why I have asked to wait until spring and they can come back out and the area can be looked at again.

Grob asked you had four and a half months to address five issues and a couple of action items. Why did you wait until tonight?

Nikki Clancy replied because Buitenwerf just proposed these new numbers to us. Especially that access driveway. Those were not part of any impervious surface numbers. We have had a busy season and our motel just got done on November 1st. There were a lot of things going on this summer and we did not have time to come back. Until our motel was done, we needed to see what was what within that area and how we were going to do things.

Grob continued impervious surface is much less important than dealing with fixing up the area where you expanded your parking lot.

Nikki Clancy said the last thing we have to do there is black dirt and reseeding in the spring. We seeded and seeded and they have come out and said that looks great and then the last thing later this fall was you need to do more. Dig out more of the impervious surface that was put down and put black dirt down and they were going to wait until spring for us to put down dirt and plant grass.

Grob asked what are you doing about restoring any of the trees?

Nikki Clancy replied there were only six trees that were taken down and two of them were within the 100' shoreline, which I believe Buitenwerf spoke to that. We weren't in violation with any trees that were taken down in that area.

Grob added the idea of preserving a 50% canopy in the 50'-100' setback is not applying then?

Nikki Clancy mentioned we are putting up a rock wall on the sides.

Tim Clancy said we didn't have to because we planted grass there. I planted grass five or six times there and he said it was fine.

Grob said we did ask you to do some things. A stormwater management plan, a parking plan, snow removal plan, etc.

Nikki Clancy responded if we are taking out our application, then why is it necessary to have all of those things done if we are not applying for that variance anymore?

Grob answered these are part of the conditions for us to approve this variance.

Nikki Clancy said we are not moving forward with that particular variance.

Petersen asked when did you amend your application?

Nikki Clancy answered I sent an email to Buitenwerf saying that we weren't moving forward with it.

Krueger clarified so you want to withdraw Variance 24-V-18?

Nikki Clancy replied yes.

Krueger stated there is no need for us to act on anything then. This request here is to table it, but if you are withdrawing it, there is no need to table it.

Nikki Clancy asked there are two applications, right?

Krueger replied there is only one. 24-V-18. That is all we have. You want to withdraw that?

Nikki Clancy agreed.

Krueger said then we would be done, except for the current violations.

Nikki Clancy responded from what we understood, the only thing left to do there, because the vegetation has been replanted, we have to dig up a little portion, put black dirt down and grass seed.

Krueger replied that would be between you and Environmental Services office. That is done to Buitenwerf's satisfaction.

Nikki Clancy agreed.

Krueger stated if you are withdrawing this application, then we are finished with that.

Buitenwerf clarified any email that I received from Nikki Clancy did not come across to me as any request to withdraw any part of the pending variance application. I sent them a letter that I have on the screen in mid November. They asked that the application be tabled and I said that I would place it on tonight's agenda for the Board to consider tabling, which would indicate that the application was still active and I have not received any counter statement from them since saying that no, we wish to withdraw. If they want to do that, that's fine, but I would ask that we get something in writing that would specifically say, signed and dated, that we hereby withdraw Variance Application 24-V-18 and then if we get that from them now, I would say that the Board could note for the record that the application has been withdrawn.

Krueger asked are you willing to do that tonight?

Nikki Clancy replied yes. It was two applications from what I had understood. We had to pay another \$100 fee as part of the \$500 after-the-fact fee.

Buitenwerf added the application is one application with two parts to it.

Nikki Clancy said we will withdraw because we still think that we are within the 25%.

Johnson asked if the numbers come back up and they show that she is outside of that 25%, would she then have to reapply with another fee?

Buitenwerf answered the impervious surface calculation that I did was based on that roughly 124,000 sq. ft. figure. That was done in mid November and I sent that to the Clancy's in an email. So the fifteen day period for appealing an administrative decision has passed so that is not able to be argued at this point. Regardless of whether the Clancy's agree or don't with that figure, that would be the figure that we would use in terms of saying whether or not there is any impervious surface violations on the property. Also, at the beginning of the County's work with the impervious surface calculation on the property, I let them have the opportunity to supply documentation to us as to what the dimensions of the impervious surfaces on the property were. They did not provide any of those figures and instead I had to have my staff go out to the property and take field measurements of all the impervious surface area on the property.

Nikki Clancy added when Buitenwerf sent me the calculations, I don't know how you would officially have to accept them. They were never put on the Environmental website as far as I know. I did write back an email and say that I don't agree with these numbers and that is when I got the letter.

Krueger said even if you give a written notice of cancellation, if there are any after-the-fact violations there, you still have to correct them.

Nikki Clancy stated there are not. We have not done anything with our new parking lot.

Krueger continued you have every right to withdraw your request, but that does not withdraw you from any obligations to comply with the Ordinance.

Nikki Clancy agreed.

Krueger explained if you want to make a written statement, we will give you time to do that right now then.

Nikki Clancy added I do have a couple people here to speak about that back access road. Can we allow them to speak under public comment?

Krueger clarified if you are withdrawing your variance, there is really not a need to.

Nikki Clancy asked who can they go to and speak to about that road then?

Krueger said it is not an issue in front of this board right now if you are withdrawing your variance.

Nikki Clancy asked who do we go to, do we go to Buitenwerf to try to refigure and resolve this?

Tim Clancy added he is counting that back access as a road and it's not. It is all drainfield back there, you can't drive back there.

Krueger restated if you are withdrawing your variance, then it is not an issue that we have to address with this Board right now.

Nikki Clancy asked can we go to Buitenwerf, directly to him?

Krueger answered you can if you want.

Krueger asked Buitenwerf what do we need for a written statement?

Buitenwerf replied we would need a statement that would say something to the effect that we the undersigned hereby withdraw our request for variance known as 24-V-18 and have the Clancys sign and date that. Once we have received that, we can acknowledge receipt of that and the Board can document that for the record.

Petersen asked do we need that tonight?

Krueger replied yes.

Johnson added if the variance was being withdrawn by them, what would have been the difference if we acted on it?

Krueger answered we would have to act on it.

Johnson asked could another applicant come in and do this in the 9th hour? What I mean is can you come in with new information and withdraw to prolong a violation?

Krueger said they still have to comply with the Shoreland Management Ordinance. If they are in violation, they have to correct it. It is the County Attorney who will enforce it. It's not for us.

Nikki Clancy said I have on here, "We hereby withdraw an application for a variance 24-V-18 for impervious surface."

Krueger said you don't even have to specify, just say you withdraw 24-V-18.

Nikki Clancy replied ok.

Krueger added you both sign.

Nikki Clancy asked is there a way to get a copy of this?

Grob asked Buitenwerf is there any need for her to add the fact that they also will bring the parking lot violation into compliance, because I am not hearing any commitment to that.

Nikki Clancy said I told you I was replanting and putting black dirt down there.

Buitenwerf added the violation on the property is a separate matter that our department will continue to work on.

Krueger asked Buitenwerf do we have the withdrawal to your satisfaction?

Buitenwerf replied yes.

Krueger stated then we are finished with that and we will move on.

New Business:

Variance Application 40-V-18 by Michael O'Brien: Lot 3, Block 1, Radkes Addition, Section 36, Township 139, Range 34, Hubbard Township on Duck Lake, a recreational development lake. Parcel 14.55.00300. Applicant is requesting a variance from Sections 501.2, 502.2 and 506 of the Shoreland Management Ordinance for an existing nonconforming structure that does not meet the 100' ordinary high water mark setback to be allowed to be used as a guest cottage on a lot that does not meet the 40,000 sq. ft. minimum lot size.

Michael O'Brien, 4052 SunnySide Road, Edina, MN, presented the application.

O'Brien stated there is an existing family cabin that has been there since 1968 that my father and my older siblings built. It is truly a cabin; it is roughly 650 sq. ft. What I have started to do is to build a storage building on the lot adjacent to it. Eventually I would like to make that storage building into a living area, but I would like to hang on to the original family cabin. The requirement for a guest cottage is the lot should be 40,000 sq. ft. I am short on that of about 2,300 sq. ft. The existing cabin that I would like to be classified as a guest cottage sits too close to the water. It was built in 1968 and there weren't any rules back then that we were aware of. It sits 65'-70' from the shoreline right now. The request is to maintain that more as a monument to my father. The primary cabin will be the new place and this will be lightly used, once or twice a summer. I have also had a septic professional come out and identify that there would be an area that we could modify the existing septic to accommodate both the new place and the old place.

Krueger asked one of the only reasons you really gave to me was a monument to your father, how is that a reasonable use not permitted? I am going to have trouble answering that.

O'Brien continued I wanted a more functional building to use for my wife and my retirement. The existing cabin means a lot to our family. I am the youngest of seven children. I am the only one that uses it and takes care of it. I would feel terrible if I tore down the building that my father built.

Krueger asked how about possibly moving it back?

O'Brien answered I have no idea what that would take financially. It would be a possibility. If that was the decision here and that would be the only way I could maintain it, I would certainly take that into consideration. I just don't know what the cost would be to move that.

VanKempen added we have been very consistent on guest cabins. We have had requests similar to yours in the past. We have made every one of those either move the cabin back to the proper setback or to tear the building down. My feeling is that if we are going to be consistent on something like this, we have to do the same at this point.

Petersen commented I am almost viewing this as an after-the-fact. I don't think it technically is. The structure that you are building right now, I had trouble when I looked at it viewing it as a storage facility. I feel like you are ready to go ahead no matter what our outcome was with what you want to convert to the guest cabin.

O'Brien added I don't want to get anybody in any kind of trouble with that and that is not why I am here at all. When I first approached the County about getting a permit to build that building, I had someone from the County come out and mark the setback for the new storage building. I had a conversation there and it was indicated to me that this would be a no-brainer almost. In looking at the first variance you need 40,000 sq. ft. and I had 37,600. In order to get the slab down in time before the frost, we went ahead. I would have waited if I had known it was going to be an issue to be honest. Subsequently that person reached out to me and said there was going to be a second variance I didn't think about. Your existing cottage sits too close to the water. So I had to modify the variance request to include that portion of it. I really wanted to build this building for many years, but had I known that it would be at the expense of the existing structure I would have hesitated quite a bit. I don't know if I would have moved forward with it. I should have known better, but I was given an unofficial indication that if all I was asking for was going from 40,000 sq. ft. to 37,600 sq. ft that would be easy, so that is why I moved forward with the permit to build the storage building. It is a storage building, I am not building a cabin until I get the variance approved and I can turn the other one into more living quarters.

Krueger opened for public comment.

No public comment was given.

Krueger closed public comment.

Grob stated I just want to say you are very close to the allowable lot size. The real difficulty with the Ordinance is in fact a guest cabin that does not meet the setback. As VanKempen was saying, when we changed our Ordinance to allow guest cabins on standard size lots, it used to be double that size, we held the line very hard in terms of people converting existing buildings and or doing what has evolved in your case whether it was your intent or not. To stay true to other decisions we have made and will make, if you are in fact going to make what has started out as a storage building into living quarters, we have no choice but to deny you maintaining this structure as a guest cottage. I don't think we can make you tear it down. You could move it back to the 100' line, but that would take another variance. That is a possibility. We need to stick to trying to hold a line to prevent these kinds of things from happening.

Krueger added you could convert it to entirely an accessory structure storage building.

O'Brien said I would think of that option and I don't know what that means, what would classify it as that.

Krueger continued I don't know what kind of proof Buitenwerf would need to make sure that it is a storage building and no longer used as a guest cottage.

Buitenwerf replied the Ordinance requires a land use permit to alter the use of the structure and then we would look for things such as the kitchen to be removed. An accessory structure is allowed a bathroom so the bathroom could stay, but then beds, the kitchen, those would be the types of predominant features we would look to be removed to show evidence that it is used for storage and not able to be used as a dwelling.

Krueger stated that would be an option where you can keep the monument for your father. Just convert it to an accessory structure.

O'Brien added I appreciate the option.

Grob asked do you have a screened in porch, you could still use it.

O'Brien commented that would be another question to ask, the building that is going up now; when the contractor is done it will just be a shell. I plan to finish that myself. When do I have to make the conversion from the living quarters in the existing cabin over? How long do I have that existing cabin? This could take me a few years to make it where you could actually live in the new building.

Buitenwerf responded your option, if the variance isn't approved would be that your A-frame is currently the dwelling on the property legally. The new structure being constructed is permitted as a storage building so that arrangement can continue going forward without any issue. If you want to switch which structure is the dwelling, that would require two land use permits to change the use of the two structures as permitted. You would change the use of the A-frame from the dwelling to an accessory structure and you would also have a separate permit to change the use of the new structure being erected from storage to a dwelling.

Krueger asked is that something that would work for you then?

Johnson added I have had a little experience with movers and doing some of the construction part. I would estimate that your move would run between \$5,000 and \$8,000 to back it up. I am not sure about your utilities, but the move of the house alone.

Krueger said you wouldn't consider that unless you know if this variance has been approved tonight?

O'Brien replied correct, I would not consider that until I knew if this one was necessarily turned down. We will see when the new building is livable. I don't have water hooked up or a toilet in there or anything. It will just be a building for now.

Krueger added I am kind of leaning with what VanKempen was saying and I believe we have a workable solution here. You can keep this one as your primary residence and the new one as storage and make that switch when you are ready.

O'Brien asked if all that happens and down the road I switch to the new one and this one is out of compliance on the square footage of the lot, I would have to apply again before I spent any money to move it back?

Krueger mentioned I am not sure that moving it back would be approved here.

O'Brien agreed I understand.

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

Grob 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 () No (X)

Why or why not? The lot is ~2,300 sq. ft. shy of the required 40,000 sq. ft. minimum lot size for having a guest cottage on a lot. The proposed guest cottage also is 64.5' from the ordinary high water mark instead of the required 100'. The other lots in the development are smaller than this one and none have a guest cottage. Allowing this 656 sq. ft. structure to be used as a guest cottage and the recently permitted 1,360 sq. ft. storage structure to be used as the primary residence would not be in harmony with the ordinance's intent nor the State Shoreland Rules which do not allow a guest cottage on a lot smaller than 80,000 sq. ft. in size.

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 is ~2,300 sq. ft. shy of the 40,000 sq. ft. minimum lot size required in order to have a guest cottage. The other lots in the development are substandard as well and smaller than this lot. Adding a 1,360 sq. ft. primary residence to the lot and using the existing residence as a guest cottage on a lot that does not meet the minimum lot size when the guest cottage does not meet the 100' OHW setback requirement is not a reasonable use of the property.

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 property is substandard in size and was created by the Minnesota Department of Natural Resources in 1987 when it platted the lot. The DNR knowingly made the substandard lot in noncompliance with its own minimum

lot size requirements. The applicant obtained a land use permit in September of this year for a storage building that is proposed to be used as a primary residence if this application would be approved. This permitted structure shows there is room on the property to place a guest cottage on the property in conformance with the 100' OHW setback.

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

Yes () No (X)

Why or why not? The lots within this subdivision were created by the Minnesota Department of Natural Resources in 1987 when it decided to sell off existing lease cabins located on these lots. State forest land lies on the other side of the road behind the lots. The lots are all put to seasonal residential uses and vary in size from 88' to ~160' wide. Most of them are around 100' wide. This is one of the larger lots in the plat and no guest cottages appear to be located on the other lots. The two lots to the east of this lot have residences and detached garages on them. The two lots to the west each have a house and detached garage on them. The houses on these four adjacent lots average around 1000 sq. ft. each. Allowing two residences on this lot – one 656 sq. ft. and the other 1360 sq. ft. would be excessive for the locality.

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 41-V-18 by Stephen Wagner: Lot 2 and the west half of Lot 3, Palmer Pines First Addition, Section 29, Township 139, Range 33, Crow Wing Township on Palmer Lake, a natural environment lake. Parcel 06.44.00200. Applicant is 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.

Stephen Wagner, 9325 Wilderness Cove, Eden Prairie, MN, presented the application.

Wagner said I purchased this property from a neighbor that has had it since the mid '60's. I am proposing a small addition off the back of the cabin. I think I sent drawings of it that best explain what my proposal is. I am currently doing mechanical engineering and I need a place where, as I retire, I can do some of it up here hopefully. The addition will enlarge and improve the existing bathroom and add on another one. There has been a new septic system that has just been installed and I had hoped to get going on it this fall, but obviously that would wait for approval from the Board and then probably until spring time when the ground thaws out.

Krueger stated everything on the addition is onto the back.

Wagner replied that is correct.

Krueger asked no additional bedrooms?

Wagner answered no additional bedrooms. There are two existing right now and a loft upstairs. I need a working space for myself. I do mechanical engineering, mostly hospital work.

Petersen asked the addition you are proposing back there, what type of foundation are you thinking of putting in there?

O'Brien answered what is existing right now are piers that go 4' down the frost line. I believe they are treated compost. They must be old telephone poles and those are set every 10' on center across the back of that cabin. In between every 5' location there is a pad that is poured that goes down about 18" with a concrete block that sits on top. What my proposal is, I will be placing sono tubes down to line up and carry the back part. There will be twelve 4' piers, 12' columns. I had to do load calculations to be certain because originally I didn't know if it was just set on the ground or not. There are piers all the way around that go down 4'. I don't know if there is a concrete base down there. I didn't want to do a lot of digging. I just purchased the property in August; I am still trying to get acclimated to what is existing. There will be footings put in there. I thought maybe there might be a chance to get footings in there this fall, but I am not going to fight the frost. It is too much work and expense.

Krueger commented when we go out there, one of the things we consider is if it can be reasonably moved. With the trees and the septic system, it doesn't appear to me that it can be reasonably moved back farther.

O'Brien agreed the new septic system prevents that.

Krueger opened for public comment.

No public comment was given.

Krueger closed public comment.

Grob made a motion to approve the application and adopt the staff report findings of fact for questions 2, 3, 4, and 5 while providing the answer for question 1.

Petersen 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 size of the expansion is reasonable, less than about 50%. The current structure is not very moveable. They are not adding bedrooms. It is in harmony with the purpose of the Ordinance.

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

Yes (X) No ()

Why or why not? Adding 480 sq. ft. of single story living space to the non-lakeside portion of an existing 960 sq. ft. single story residence 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 residence was constructed in 1969 which was two years prior to when the ordinance was enacted. It sits 45' from the OHW.

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

Yes (X) No ()

Why or why not? The homes to the east of this lot are similar in size. The house on the adjacent lot to the east sits at the same OHW setback as this house. The next two lots to the east have residences at ~100' OHW setbacks. The land to the west and southwest of the lot is made up of four large, wooded, undeveloped tracts. The applicant owns the large lot to the immediate west on which there is only located a detached garage. The proposed addition will not cause the locality's seasonal rural residential character to be harmed.

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 42-V-18 by Marcia Udem: Part of Gov't Lot 1, Section 26, Township 141, Range 34, Lake Emma Township on Big Sand Lake, a recreational development lake. Parcel ID 16.26.00220. Applicant is requesting a variance from Section 702 of the Shoreland Management Ordinance for a proposed addition to a nonconforming residence located in the shore impact zone.

Marcia Udem, 300 Lake Ave., Park Rapids, MN, presented the application.

Udem stated I am requesting a variance to put on an addition of an enclosed porch on my cabin. I am proposing a 16' x 20' attached enclosed porch that is unheated and uninsulated.

VanKempen asked what kind of a foundation were you looking at for this porch?

Undem replied it is going to have deck type flooring. It will be mounted on posts. There will be a small crawlspace underneath, 18"-24".

VanKempen asked you don't plan to put a floor in that crawlspace?

Undem answered no.

Krueger opened for public comment.

No public comment was given.

Krueger closed public comment.

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

Johnson 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 was built prior to the ordinance in 1965 at a 45' OHW setback. The base of a bluff lies 12' behind the cabin and the well servicing the cabin lies 4' south of the cabin. The proposed location is the only feasible location for an addition. The cabin is only 672 sq. ft. in size and 15' high and the proposed addition is only 320 sq. ft. in size and 14' high. Existing tree cover between the cabin/proposed addition and the lake will provide screening of the structure when viewed from the lake. There is no other viable location for the addition. The only other option would be to remove the structure and build a new residence at the top of the bluff – which would not be reasonable.

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 24' x 28' x 15' H and the proposed porch addition is 16' x 20' x 14' H. The addition is reasonable in scale relative to the cabin's size and there is nowhere else to go with an addition as the well is 4' south of the south cabin wall. The only other option would be to remove the cabin and build a new structure up on top of the bluff which 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 (X) No ()

Why or why not? The existing cabin was built in 1965 at a 45' OHW setback per the application. A bluff rises up right behind the cabin so there is no room to add onto its rear.

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

Yes (X) No ()

Why or why not? The neighboring lots are put to the same seasonal residential use as this lot and are similar in lot width and size to this lot. The home on the adjacent lot to the south is 4-5 times greater in size than the cabin on this lot. The cabin on the adjacent lot to the north is similar in size to the cabin on the subject lot. The house on the lot two lots to the north is in the 4-5 times greater in size than the lot's cabin category. Thus, the proposed addition will not harm 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.

Variance Application 43-V-18 by Pamela Zawistowski: Lot 1, Section 32, Township 141, Range 33, Mantrap Township on Clausens Lake, a natural environment lake. Parcel ID 20.32.00100. Applicant is requesting a variance from Section 702 of the Shoreland Management Ordinance for a proposed new residential structure to replace an existing residence within the shore impact zone.

Ashley Zawistowski, (daughter of Pamela Zawistowski), 6911 Old Viking Blvd., Anoka, MN, presented the application.

Krueger said we understand you want to tear the whole building down?

Zawistowski answered she would like to keep the fireplace wall and then just build in the same exact spot, but keep that wall where the fireplace is.

Krueger asked is there a reason for wanting to save the fireplace?

Zawistowski explained because she wants to keep the building in the same place. Isn't there a rule where if you keep one wall, you would be able to build?

Krueger replied no.

Petersen added I noticed that note in the file about perhaps saving money and to be honest with you, I have background in construction and my feeling about that wall, when we were out and looked at the home, I don't know if it is savable in a demolition type project. To me it doesn't seem feasible to even try to do that. That being said, I am struggling with the idea of tearing down and keeping it right there. Especially, if I understand, the new footprint would be larger than the existing, is that correct?

Krueger said I am not even a builder and I can't see how you can save that fireplace and wall.

Grob added for the record, Buitenwerf, the new structure could be built within 75' of the lake even though 150' is the setback for natural environment lakes, because they are rebuilding, the setback would only have to be 75'. Is that correct?

Buitenwerf explained the Ordinance would allow the existing structure to be rebuilt as is. Meaning the same three dimensional shape that it currently is, at its current location, with a permit. Alternatively the proposed enlargement could be constructed by permit if the entire structure with the addition would be moved so it was at least 75' from the ordinary high water mark and outside of the shore impact zone. That would be a second option. Third would be to build a new structure that would be located at a 150' setback.

Petersen asked why would they be allowed to go 75' instead of holding to the 150'.

Buitenwerf answered that is just the nature of how our Ordinance language on non-conforming structures is worded in conjunction with how the parent Minnesota Statute 394.36, subdivision 4 that deals with nonconformities is worded. That is also how our legal counsel advises looking at and applying the language.

Krueger added I walked around there and we were looking at approximately 75' from the lake and it looks like there is plenty of space to build there. Just like Petersen was saying, it is highly unlikely that you are going to save that chimney, so why not build at 75'. That is how I am looking at it.

Johnson said I agree.

Krueger opened for public comment.

No public comment was given.

Krueger closed public comment.

Grob added I want to make sure that she understands what we are talking about. We are looking at denying your variance request for reasons that you have heard. You could reconstruct to the same location, exact same footprint; or you could construct something larger at a 75' setback.

Krueger said you have plenty of room.

Zawistowski agreed.

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

Grob 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 () No (X)

Why or why not? The property is 16.6 ac. and ~766' deep at its deepest point. There are no wetlands on the property or other physical limitations that prevent the proposed structure from being built by permit either at a 75' or greater ordinary high water mark (OHW) setback per Section 702 of the Shoreland Management Ordinance or at a 150' OHW setback by permit. There is plenty of room in the existing cleared area on the peninsula where the existing structures are located where the proposed house could be constructed by permit. Thus, granting a variance to replace the existing single-story house located 26' from the OHW with a two-story house having a 2,350 sq. ft. footprint at the same 26' OHW setback would not be in keeping with the ordinance's intent.

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? Permittable options exist for the proposed structure to be built further from the ordinary high water mark than the existing structure. Section 702 of the Shoreland Management Ordinance would allow the proposed residence to be built by permit if it was moved to at least a 75' OHW setback. There is ample room in the existing cleared area where the house and outbuildings are located where this could happen. Replacing a single-story house with a 2,350 sq. ft. footprint 26' high two-story house at a 26' OHW setback on a 16.6 ac. property with plenty of alternative building site locations is not reasonable. The application's stating the new residence needs to be on the same site as the existing in order to save the chimney and not have to move septic system components is allowing pennies to drive dollars given the scope and cost of the proposed new house.

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 application states the applicant desires the variance to save money and the existing chimney (which may or may not realistically be able to be saved), and not have to move the septic system. The property is 16.6 ac. in size and ~766' deep at its deepest point. There are no wetlands on the property and while there is 40' of rise from the west to east sides of the property, there is ample room where a residence could be constructed in conformance with all setback requirements by permit. For example, there is room where the existing accessory storage structure is located on the property behind the existing cabin that meets the 150' ordinary high water mark setback.

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

Yes () No (X)

Why or why not? The locality is very rural and undeveloped. Per review of aerial photography, this appears to be the only readily visible structure on Clausen Lake. Surrounding land is undeveloped forest land. The nearest developed residential lots are over a quarter mile away to the south of the property. These lots were platted in 1984 and thus all the residences on them comply with ordinance setbacks and other requirements. Although there are not many neighbors that would be affected by the proposed project, the lake is classified natural environment (NE) for a reason. Because it is largely undeveloped, allowing a new two story residence to be constructed 26' from the OHW would not maintain the locality's NE character.

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

Yes (X) No ()

Why or why not? Economics were cited in the application as a difficulty along with stated desires of being able to reuse the existing chimney and not having to move the septic system.

Miscellaneous:

Communications:

Buitenwerf said there will be a January meeting which will consist of working on the amendment idea for the Shoreland Ordinance of allowing an aerial adventure park or an outdoor recreation use category to the Ordinance. If you have any general ideas of the direction you want to go, we can certainly discuss that briefly tonight so I could put some form of a starting draft together for the starting point in January. If not, we can start at square one in January with that topic. Otherwise we have one minor subdivision application and one variance so far. The deadline is December 31st. I have received another application for conditional use amendment that I haven't finished processing yet so there might be some other add-ons.

Krueger added everyone here knows Veronica Andres, she is here. She is going to be replacing me if the Board votes that way.

Buitenwerf stated I think that AMC is looking to have its usual training opportunity again this year in late March so I will let you know when I get specifics on that just to keep in the back of your mind for scheduling.

Grob asked as far as the recreational use, I had several suggestions in an email that I sent. Do I have to resend them for input or can you take those as possible input?

Buitenwerf answered I have it; it would be a matter of if the others are in agreement enough. It is not fresh in my mind what you had in there. Assuming it has enough detail to work with, I can.

Grob continued I only proposed it as things for you to consider.

Buitenwerf added as far as drafting content, that will be the Commission's role.

Grob clarified then what do you expect from us in January? Are you going to have a draft that we can review or are we going to discuss what we want in it?

Buitenwerf answered it would be the latter; unless you can rattle off we want A, B, C, D, right now. I am not getting the sense that anyone is at that point yet. I will resupply you with the information I gave you last month that had various examples from other entities and then we will scratch out a draft from that.

Grob asked would we do that as a working session or as part of the formal meeting?

Buitenwerf replied as part of the regular meeting.

VanKempen asked do I have to give you a formal, written resignation and for Krueger too?

Buitenwerf answered I don't believe that will be necessary. I did want to acknowledge the two of you for your years of devoted service. You both sacrificed a lot to serve and you have done an excellent job for us over the years especially Krueger, he is a very senior member of the Planning Commission. You have set the bar very high for how a Planning Commission/Board of Adjustment operates.

Adjournment:

Grob made the motion to adjourn.

VanKempen seconded the motion.

The motion carried unanimously 5 – 0.

The meeting adjourned at 7:54 p.m.

Respectfully submitted,

Staci Harvey

Recording Secretary