



Environmental Services

301 Court Avenue, Park Rapids, MN 56470

Phone: 218.732.3890

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July 2017 Planning Commission/Board of Adjustment Meeting Staff Report

Planning Commission:

New Business:

Minor Subdivision Application by Dirk Fisher: Part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ and the South Half of the NW $\frac{1}{4}$, Section 22, Township 145, Range 33, Helga Township, Parcel 11.22.00300. Applicant is requesting to subdivide a 63.43 acre property into eight tracts.

Enclosed Documents:

- 2017 aerial photo with subject property highlighted and 2' elevation contours and wetland boundaries shown

The subdivision proposes to create eight tracts out of 63.43 acres. All of the tracts meet the 5 acre minimum and 300' average minimum width requirement. The property fronts Highway 71 on its west boundary and the interior access road shown in the certificate of survey is a recently adopted township road. The property's vegetative cover is a mixture of wetlands, upland grass, coniferous wooded areas and deciduous wooded areas.

Septic system site evaluations were submitted for all the tracts that show two suitable Type I drainfield sites on each tract. On many of the lots, mound systems are the only option due to a high water table.

Helga Township, in which the property is located, reviewed and approved the subdivision as evidenced in its June 13, 2017 letter that is a part of the application.

The department recommends approval of the application because it meets all of the ordinance criteria.

Conditional Use Application 5-CU-17 by Shawn Gray: Lots 1 – 3, Block 2, Kola-Teepee Park, Section 10, Township 141, Range 35, Arago Township on Hay Creek, a tributary. Parcels 02.38.01000 and 02.38.01200. Applicant is requesting conditional use permit per Section 401, Table 1 of the Shoreland Management Ordinance to operate a restaurant/bar.

Enclosed Documents:

- 2011 aerial photo with subject property highlighted and 2' elevation contours shown
- 2 - 2017 aerial photos of property
- Application for State Deed for Tax-Forfeited Land for parcel 02.38.01200
- Env. Services Dept. impervious surface area calculation for parcels 02.38.01000 and 02.38.01200
- SSTS sizing information showing new system is slightly undersized for proposed use



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The existing restaurant/bar use on the property is a legal nonconforming use. The use is allowed by the Shoreland Management Ordinance (SMO) on a tributary classified creek as a conditional use. Thus, the owner is requesting a conditional use permit in order to make the use a conforming use and avoid the need for a variance from Section 701 of the SMO any time the owner may want to expand the use.

This restaurant/bar use has been present on the property for many decades. The owner would like to now expand the parking lot to accommodate more customers and hopefully resolve a safety-related parking issue that currently exists due to patrons parking along the sides of County Road 89 because of limited parking on the property. There also are possible future plans indicated in the application to construct a screened-in porch on the north side of the restaurant. Some maintenance work to the restaurant structure in the form of some foundation repair, roofing, and possible removal of some storage sheds that are along the south and east sides of the restaurant is also planned.

The “Additional business scope and operations details” sheet in the application lays out the details on the number of bar and restaurant seats, number of employees, and other aspects of the business such as hours of operation.

The SSTS servicing the business was recently replaced with a new system. When staff reviewed the “Additional business scope...” document in the application (which we received after the system was installed) and calculated the needed SSTS design flow based on the parameters provided in the document, they found that the SSTS permit issued is 24 gallons per day shy of the design flow needed for the proposed use. This shortage can be resolved by dropping either one bar seat or one restaurant seat from the use’s proposed maximum occupancy. Please see the enclosed supplemental document showing the departmental staff’s notes on the design flow calculation.

A variance application accompanies this conditional use permit application. The variance application seeks to exceed the 25% impervious surface area threshold for the lot in order to add an 85’ x 100’ parking lot expansion. Said expansion would bring the lot’s impervious surface area to 37.6%. The variance application states that a lower area on the lot to the northwest of the proposed parking area will satisfactorily handle the stormwater runoff that the additional parking area generates. The variance application also states that an existing grassed area in the shore impact zone of the creek serves as a second satisfactory mediation area for the property’s stormwater. Because what the conditional use permit might look like may largely be determined by the outcome of the variance application, the department recommends acting on the variance application before the conditional use permit application and thus moving the variance application to the second item of business after the Fisher subdivision application.

Parcel 02.38.01200 that occupies the northern end of the property was purchased by the owner last fall from the County as it was a tax-forfeiture. The deed paperwork for this sale has been submitted to the State and the owner is awaiting the State’s delivery of a deed for the property.

In addition to the stormwater issue to evaluate, the other noticeable issue with the business use to consider is customer vehicle parking and related safety. The proposed parking lot expansion will have two approaches installed onto Inlet Circle (an Arago Township road). The department has not received any information from the Township to know if it has approved these approaches.

The property is located in a largely residential area on Hay Creek and between Eagle and Island Lakes. The Vacationaire restaurant is located one eighth of a mile to the north of this property and a couple resorts are located roughly one quarter of a mile away to the west and south of the property.

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The department is supportive of the application if the parking lot safety, stormwater management, and SSTS sizing issues can satisfactorily be addressed. The CUP application (as presented with the parking lot expansion) ought to only be recommended for approval if the variance application to exceed the 25% impervious surface area for the proposed parking lot expansion is approved. Below are some conditions to consider. Additional conditions may be appropriate to place on the conditional use to address stormwater issues relating to the parking lot expansion and safety issues related to customer vehicle parking.

Proposed Conditions:

1. This conditional use permit (CUP) is for the operation of the entire premises as one restaurant/bar business use venture. As such, any land, that through subdivision or addition to the property to which the CUP is granted, is added or subtracted, is/are not granted or allowed the right to operate in accordance with the CUP without first applying for and obtaining the necessary CUP from the County.
2. The business shall not have more than 9 bar seats and 30 restaurant seats because the newly installed septic system is sized to accommodate no more than this number and combination of customer seats.
3. Access to the property shall only be by the existing approach onto County Road 89 and the two proposed approaches onto Inlet Circle (if Arago Township approves these Inlet Circle approaches.)
4. From May 15 to October 1, the business shall operate only within the hours of 11:00 a.m. to 1:00 a.m. From October 2 to May 14, the business shall operate only within the hours of noon to 10:00 p.m. The business may operate all seven days of the week.

Below are proposed findings of fact for your consideration:

1. Is the requested use consistent with public health, safety, and welfare?

YES (X) NO ()

Why or why not?

The proposed use falls under the “restaurants...taverns...” conditional use category in the ordinance. A restaurant/bar use has existed on this property for many decades without negative effects to surrounding land uses. The business owner is addressing the existing customer vehicle parking safety issue of vehicles being parked along the sides of County Road 89 by constructing an 85' x 100' customer parking area to the north of the restaurant.

2. Is the requested use consistent with the goal of preventing and controlling water pollution, including sedimentation and nutrient loading?

YES () NO ()

Why or why not?

(The answer to this question will depend on the outcome of the variance application and your thoughts after viewing the property.)

3. Will the requested use not adversely affect the site's existing topography, drainage features, and vegetative cover?

YES () NO ()

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Why or why not?

(The answer to this question will depend on the outcome of the variance application and your thoughts after viewing the property.)

4. Is the requested use's site location reasonable in relation to any floodplain and/or floodway of rivers or tributaries? YES (X) NO ()

Why or why not?

There are no FEMA designated floodplains in Hubbard County. The lot adjoins Hay Creek and the restaurant/bar structure is located within the Creek's shore impact zone. Per the State of Minnesota's LiDAR 2' elevation contour GIS data layer, the structure is 2' higher in elevation than the creek.

(The department recommends asking the applicant during the meeting if there has been any trouble with flooding over the years.)

5. Has the erosion potential of the site based upon the degree and direction of slope, soil type, and existing vegetative cover been adequately addressed for the requested use? YES () NO ()

Why or why not?

(The answer to this question will depend on the outcome of the variance application and your thoughts after viewing the property.)

6. Is the site in harmony with existing and proposed access roads? YES () NO ()

Why or why not?

7. Is the requested use compatible with adjacent land uses? YES (X) NO ()

Why or why not?

The restaurant/bar use of this property has existed for several decades without any negative effects on the adjacent residential land uses. County Road 89 is not a high speed road along this property which is conducive to low speed customer traffic pulling into and out of the property. The proposed two approaches onto Inlet Circle will also help provide for safe customer vehicle traffic flow by having most of the traffic routed through this township side road that intersects County Road 89 at a "T" with a stop sign that is used by other residential lots with sufficient traffic volume that the intersection is prominent and also known by locals such that they anticipate and account for traffic coming onto County Road 89 from Inlet Circle.



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

Why or why not?

Having a restaurant/bar in a shoreland area is reasonable and a common sight in this area. For example, Vacationaire one quarter mile up the road is another long-standing restaurant located on a riparian lot. Lake residents (whether seasonal or year-round) enjoy the ability to eat at a restaurant located in close proximity to their homes.

9. Is the amount of liquid waste to be generated reasonable and the proposed sewage disposal system adequate to accommodate such?
YES (X) NO ()

Why or why not? A new SSTS was installed in mid-June. A condition has been placed on the conditional use permit that sets a maximum number of allowed bar and restaurant seats to ensure that the use does not exceed the septic system's design flow sizing.

10. Will the visibility of structures and other facilities as viewed from public waters comply with Section 901 of the Ordinance?
YES () NO ()

Why or why not?

(The department recommends evaluating this item during the lot viewal. Based on aerial imagery interpretation, it does not appear that the structures on the lot meet the vegetative screening requirements of Section 901. Thus, some mitigation by considering a condition that requires some trees/shrubs to be planted between the restaurant and creek may be warranted.)

11. Is the site adequate for water supply and on-site sewage treatment systems?
YES () NO ()

Why or why not?

The lot is 1.09 acres in size. One drainfield site has already run the course of its lifespan and the newly installed septic system is located in one of the few spots left on the lot for such.

(The department recommends evaluating the lot in the context of this question during the lot viewal in order to expand on the answer to the question. There may not be many other viable options for a drainfield site other than where the new system is located. This is the department's biggest concern for the long-term viability of this property having a restaurant/bar use located on it.)

12. Are the affected public waters suited to and able to safely accommodate the types, uses, and numbers of watercraft that the use will generate?
YES (X) NO ()

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Why or why not? The use will not generate any watercraft use. Rather, it accepts a few watercraft from patrons who travel to the restaurant via the water through Hay Creek and tie up their watercraft to the docks on the lot.

Board of Adjustment:

New Business:

Variance Application 21-V-17 by Jason and Stephanie Towley: The South 110' of the N ½ of the S ½ of Gov. Lot 4, Section 12, Township 145, Range 34, Rockwood Township on Plantaganet Lake, a recreational development lake. Parcel 22.12.01600. Applicants are requesting a variance from Sections 503 and 702 of the Shoreland Management Ordinance for a proposed addition to a legal nonconforming residence located in a bluff impact zone.

Enclosed Documents:

- 2011 aerial photo with subject property highlighted and 2' elevation contours shown
- 2017 aerial photo close-up of lakeside portion of property

The request is to tear down and replace an existing single story addition on the rear of a legal nonconforming "A" frame 24' x 16' residence located in a bluff impact zone with a new 10' x 24' single story addition. The lakeside wall of the addition would be at a 96' OHW setback per the application sketch. The A frame portion of the cabin is built right into the face of the bluff crest. The addition sits right at the top of the bluff in the 30' setback area.

The SSTS servicing the cabin is compliant and it will continue to be properly sized for the cabin if the proposed addition is allowed to be constructed.

The department finds the reasoning for and scale of the proposed project to be reasonable and therefore supports the application's approval.

Below are proposed findings of fact for your consideration:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes (X) No ()

Why or why not? The structure predates the shoreland ordinance and bluff language that was added to the ordinance in 1991. The proposed addition will replace an existing addition on the rear (non-lakeside) of the cabin that is located on a flat area in the 30' setback from the bluff crest. The proposed addition location is the ideal place where an addition could be made to the structure and cause the least amount of impact to the bluff impact zone.

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

Yes (X) No ()

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Why or why not? As stated in the answer to question 1, the residence predates the ordinance and bluff regulations. The existing addition to the rear of the A frame portion of the cabin is noticeably deteriorated and in need of significant repair or replacement. The scope of the proposed addition is reasonably small at 10' x 24' and is a single story addition. It thus does not warrant requiring the entire structure to be moved away from the lake to a conforming setback.

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

Yes (X) No ()

Why or why not? There is a bluff on the lot and the existing residence is built right into and on the bluff crest. There is no way to add onto the structure without the addition being in the bluff impact zone. The proposed location for the addition is the least impacting place where an addition could be placed.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner?

Yes (X) No ()

Why or why not? The residence was constructed by a party other than the landowner prior to the shoreland ordinance being enacted. The bluff regulations were then added to the ordinance in 1991.

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

Yes (X) No ()

Why or why not? The proposed addition is only 240 sq. ft. in size with a 35 sq. ft. hallway attaching it to the main A frame portion of the residence while the existing addition is 8' x 17'. The size change is negligible and thus will not harm the locality's character.

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

Yes (X) No ()

Why or why not? Economics were not cited in the application as the sole difficulty. The difficulty is due to the residence having been built prior to the ordinance being enacted in a slope that later became defined and regulated as a bluff.

[Variance Application 22-V-17 by Michael and Lisa Bell:](#) Lot 7 Block G, Pine Haven Beach, Section 17, Township 139, Range 34, Hubbard Township on Long Lake, a recreational development lake. Parcel 14.38.07100. Part 1: Applicants are requesting a variance from Section 703 of the Shoreland Management Ordinance (SMO) to construct a lakeside deck that exceeds the maximum allowed 15% of structure ordinary high water mark setback encroachment. Part 2: Requesting a variance from Section 702 of the SMO for a proposed addition and roof alteration to a nonconforming residence located in the shore impact zone. Part 3: Requesting a variance from Section 904.6 of SMO to exceed the 25% impervious surface area threshold with the proposed deck and cabin addition/alteration.

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Enclosed Documents:

- Pertinent pages of Variance 96-87 which contains a condition that no future additions to the dwelling or garage were allowed.
- 2017 aerial photo of property
- 2011 aerial photo with subject property highlighted and 2' elevation contours shown
- Env. Services Dept. staff calculation of lot's impervious surface area coverage

The request is to convert an existing concrete platform on the rear of the cabin into an enclosed addition, enlarge the eave overhangs on the cabin, and then construct a lakeside porch that wraps around the south side of the cabin. Variance 96-87 that was granted to the detached garage on the property included a condition that no future additions would be allowed to the garage or cabin. So a variance from this 96-87 condition is required in order for the proposed cabin addition to occur. A variance from Section 703 of the SMO is required because the proposed deck will encroach lakeward 33% of the cabin's OHW setback instead of the maximum allowed 15%. A variance from Section 701 is needed to add onto the cabin because it is located in the shore impact zone (SIZ) and additions to nonconforming structures in the SIZ are not allowed. A variance from Section 904.6 of the SMO is required because the proposed addition and deck will cause the property to have 36.3% impervious surface area and the maximum allowed amount is 25%.

The SSTS servicing the cabin is compliant and located in the only spot on the lot it can be placed. Unfortunately, this is in the driveway to the detached garage. The owners removed the driveway surface and planted grass over the drainfield, but it is unknown what compaction damage was done to the system and there are no safeguards against the drainfield area continuing to be compacted when the garage is accessed through the overhead door that faces the drainfield.

The department recommends denial of the request because its scope is too large for what the lot can reasonably accommodate and no mitigating measures have been offered by the applicants to offset the impervious surface area overage.

Below are proposed findings of fact for your consideration:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes () No (X)

Why or why not? The proposed lakeside deck would extend more than twice the allowed distance toward the lake. The deck and proposed cabin addition would cause the lot to have 36.3% impervious surface area. The current drainfield is in the only place it can be located which is in front of the detached garage overhead door and previously was covered by impervious surface and compacted to an unknown degree. Allowing an enlarged residence to be constructed and place a likely increased load on the drainfield would not be in harmony with the ordinance's intent.

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

Why or why not? The lot currently has a residence on it with an attached concrete platform and a detached garage. The lot can also be used to access the lake and enjoy the outdoors. All of these aforementioned

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items are reasonable uses of the property. A lakeside deck that complies with Section 703 of the Shoreland Ordinance can also be constructed on the cabin by permit.

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

Yes (X) No ()

Why or why not? The lot is .15 acres in size. It is ~66' wide at the shoreline, 20' wide at the rear lot line, and ~157' deep. The cabin was constructed prior to the ordinance in the shore impact zone and the garage was constructed by variance in 1996.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner?

Yes (X) No ()

Why or why not? The lot and existing house were created prior to the ordinance's enactment. The difficulty is caused by the lot's small size and the cabin's location in the shore impact zone.

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

Yes () No ()

Why or why not? The cabin would be similar in size to other residences in the neighborhood. The area consists of single family seasonal and year-round residences.

(During the lot viewal, the department recommends looking at the adjoining properties to see if they have lakeside decks/platforms and if so, what the size(s) of such are.)

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

Yes (X) No ()

Why or why not? Economics were not cited in the application as the sole difficulty. The difficulty is due to the unique lot size and trapezoidal shape.

Variance Application 23-V-17 by Hal Baumchen/Little Tree Properties: Lot 11, Block 1, Island View, Section 3, Township 139, Range 33, Crow Wing Township on Island Lake, a recreational development lake. Parcel 06.51.00900. Applicant is requesting a variance from Section 506 of the Shoreland Management Ordinance for a proposed addition to a guest cottage that will cause the structure to exceed the 700 sq. ft. maximum allowed guest cottage footprint.

Enclosed Documents:

- 2011 aerial photo with subject property highlighted and 2' elevation contours shown
- 2017 aerial photo of property

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The request is to make a lakeward 16' x 18' (288 sq. ft.) x 15' high addition to an existing 18' x 24' (432 sq. ft.) guest cottage that meets all setbacks with the proposed addition factored in. The addition would bring the guest cottage square footage to 720 sq. ft. when 700 sq. ft. is the maximum footprint allowed by the ordinance. The application states that a much bigger addition could be made to the existing lake home by permit. The lot meets the minimum lot size requirements needed in order to have a guest cottage.

The SSTS servicing the guest cottage is compliant and properly sized. It was installed in October 2016. The SSTS servicing the primary residence also is compliant. Neither system will be physically impinged upon by the proposed guest cottage addition.

The department recommends denial of the application because in it the landowner states that the desired living space could be accomplished by permit by adding onto the primary residence.

Below are proposed findings of fact for your consideration:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes () No (X)

Why or why not? The application states that the desired amount of additional living space could be accomplished by adding onto the primary residence by permit. The guest cottage could also be enlarged from its current 432 sq. ft. to 700 sq. ft. (20 sq. ft. shy of the proposal) by permit. Allowing the guest cottage to be made 20 sq. ft. larger than what is allowed would not be in harmony with the ordinance intent when permissible alternatives exist.

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

Why or why not? There currently is a primary residence and guest cottage on the lot - both of which provide reasonable uses of the property. The guest cottage can also be enlarged 268 sq. ft. by permit. The lot can be used to access the lake and enjoy the outdoors - which are other reasonable uses to which the property can be put by the owner.

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

Why or why not? The property complies with the minimum lot size requirements for guest cottages and the guest cottage complies with all setback requirements - even factoring in the proposed addition location. The application states that the alleged difficulty is that the owner wants to build 20 sq. ft. more than what is allowed by permit onto the existing guest cottage instead of adding living space to the primary residence or being content with a 700 sq. ft. guest cottage.

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

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Why or why not? The house and guest cottage meet all of the setback requirements as does the lot meet all the minimum lot size requirements. The alleged difficulty is created by the landowner's desire to build a 20 sq. ft. larger addition to the existing guest cottage than what is allowed by permit. The application states that additional living space could also be added to the primary residence by permit.

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

Yes () No ()

Why or why not?

(The department cannot tell from aerial imagery if guest cottages exist on other lots in the area. Thus, the department recommends looking for any evidence of such during the lot viewal.)

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

Yes (X) No ()

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

[Variance Application 24-V-17 by Brett and Sherry Wyman:](#) Part of Gov. Lot 11, Section 1, Township 145, Range 32, Farden Township on Big Wolf Lake, a recreational development lake. Parcel 07.39.01200. Applicants are requesting a variance from Section 702 of the Shoreland Management Ordinance to rebuild and change the roof orientation on a nonconforming residence located in the shore impact zone.

Enclosed Documents:

- 2011 aerial photo with subject property highlighted and 2' elevation contours shown
- 2017 aerial photo of property
- Pertinent pages of Variance 14-V-04 that allowed a 10' x 20' addition to be made to the cabin

The request is to tear down the existing cabin and rebuild it with a roof that has its ridge oriented perpendicular to the shoreline instead of the current parallel to the shoreline orientation. A variance is needed because the roofline is being reoriented and thereby occupying airspace that the current cabin does not occupy. Otherwise, Section 701 of the Shoreland Ordinance would allow the nonconforming structure to be rebuilt by permit if the new structure kept the same 3-D dimensions as the original. The applicants pulled a permit for the addition allowed by Variance 14-V-04 earlier this year and realized once they got into the structure that the cabin was not worth adding onto. Because the lot is located on Big Wolf Lake which is part of the Mississippi Headwaters Corridor, any variance approval action by the Board of Adjustment must also be certified (i.e. approved) by the Mississippi Headwaters Board.

The SSTS servicing the cabin is a 1000 gallon holding tank. A condition of Variance 14-V-04 is that the guest cottage (a.k.a. boathouse) must be disconnected from the holding tank in order for the addition to be constructed. The tank meets sizing requirements for the number of bedrooms in the cabin.



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The department finds that there is a legitimate practical difficulty in meeting setbacks on the lot because the cabin is sandwiched between the lake and road and boathouse (i.e. guest cottage). The question is whether the roof orientation change will pose a significant aesthetic impact given the cabin is only 17' from the OHW.

Below are proposed findings of fact for your consideration:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes (X) No ()

Why or why not? The lot is only 100' deep between the shoreline and Big Wolf Lake Road and there also is an existing 14.5' x 22.5' accessory structure in this area. The sole change to the cabin will be the roof ridge orientation. The height will stay the same. This impact will be negligible and aesthetic only.

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

Why or why not? The cabin has been found by the owners to be in poor condition and in need of replacement to be structurally sound and thus able to support the 10' x 20' addition allowed by Variance 14-V-04. The cabin could be rebuilt by permit. The only change requiring a variance is the roof ridge orientation being turned 90 degrees.

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

Why or why not? The lot is 50' wide and only 100' deep between the lake and road. In this space, there also is a 14.5' x 22.5' accessory structure and a 1000 gallon holding tank. The back of the lot on the other side of the road also has very limited space due to an existing accessory structure and wetland that occupies the rear third of this side of the lot. There is not another place on the lot where the cabin could go.

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

Why or why not? The lot and existing house were created many decades prior to the ordinance's enactment. The difficulty is caused by the small lot size, location of existing accessory structures, and the road running through the middle of the lot.

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

Why or why not? The new house will be nearly identical to the current house except for the roofline orientation change. The house has been in the location for decades and predates many of the other homes in the neighborhood that is comprised of single family seasonal and year-round residences.



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

Yes (X) No ()

Why or why not? Economics were not cited in the application as the sole difficulty. The difficulty is due to the unique lot size, location of existing accessory structures, and the road's running through the center of the lot.

Variance Application 25-V-17 by Kyle Henry: Part of Gov. Lot 3, Section 25, Township 141, Range 35, Arago Township on Potato Lake, a recreational development lake. Parcel 02.25.00610. Applicant is requesting a variance from Section 902 of the Shoreland Management Ordinance to excavate a portion of a permanent ice ridge and exceed the permissible volume of earthen material that can be moved in a shore impact zone.

Enclosed Documents:

- 2 - 2011 aerial photos with subject property highlighted and 2' elevation contours shown (one is close up of project area)
- 2017 aerial photo of property
- Vegetative Alteration Permit 43-SA-16 showing the proposed project area last year when trees were cleared from it

The request is to create a 20' x 15' shoreline recreation use area by excavating this footprint of a permanent ice ridge to a depth of 4.17' from the ridge's crest. The estimated quantity of material to be removed is 23 cubic yards.

The lot is unimproved. An SSTS permit was issued last year.

It is hard to tell much about the project area from the application photos. The vegetative alteration permit photos show the area a bit better. This said, the department will need to see the site during the lot viewal before being able to make a recommendation on the application as it is not clear if there is a more suitable location on the lot for a shoreline recreation use area.

Below are proposed findings of fact for your consideration:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes () No ()

Why or why not?

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

Yes () No ()

Why or why not?

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

Yes () No ()

Why or why not?

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner?

Yes () No ()

Why or why not?

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

Yes () No ()

Why or why not?

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

Yes (X) No ()

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

[Variance Application 26-V-17 by David Hanten:](#) Lot 1, Block 1, Kabekona North Shores, Section 28, Township 143, Range 32, Lakeport Township on Kabekona Lake, a recreational development lake. Parcel 19.51.00100. Applicant is requesting a variance from Section 902 of the Shoreland Management Ordinance for a proposed cut through a permanent ice ridge.

Enclosed Documents:

- 2017 aerial photo with subject property highlighted and 2' elevation contours shown

The request is to make a 10' wide cut through a 3' high x 4' deep permanent ice ridge to allow for a dock to be placed in and taken out of the lake. Rocks would be placed on the sides of the cut in an effort to control erosion.

The lot is unimproved so there are no structures or a septic system on it.

Similar to the other ice ridge cut application on this month's agenda, it is too difficult to tell much from the application photos and aerial photo imagery to know if there is a legitimate need or if there is another reasonable location on the lot where a dock could more easily be placed that would not require altering the ice ridge or may require less of an impact to it. The department will thus need to see the site during the lot viewal in order to make a recommendation.

Below are proposed findings of fact for your consideration:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes () No ()

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Why or why not?

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

Yes () No ()

Why or why not?

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

Yes () No ()

Why or why not?

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner?

Yes () No ()

Why or why not?

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

Yes () No ()

Why or why not?

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

Yes (X) No ()

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

Variance Application 27-V-17 by Duane and Cheryl Schommer: Lot 3, Block 1, Pineoak Shores, Section 14, Township 139, Range 35, Straight River Township on Moran Lake, a natural environment lake. Parcel 25.40.00300. Applicants are requesting a variance from Sections 507.2 and 902 of the Shoreland Management Ordinance for a mobility path to access the lake that exceeds the 4' maximum allowed width for such and will require excavating more than the permissible volume of earthen material in the shore impact zone and a steep slope.

Enclosed Documents:

- 2011 aerial photo with subject property highlighted and 2' elevation contours shown
- 2 - 2017 aerial photos of property (one photo is zoomed in on the structures on the lot)

The request is to allow a lake access path to exceed the 4' maximum allowed width so that the landowner who is a disabled vet can access the lake via an ATV or cart. The initial portion of the path already exists and averages 10' wide. It was constructed without zoning approval. The proposed new portion of the path would be

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6' wide and terminate with a 16' x 20' rectangular area to facilitate turning around an ATV or cart. The turn-around area would require a cut into the slope of a 5' depth. A 5' high retaining wall is proposed to hold back the toe of the slope.

With the Americans with Disabilities Act, a disability is able to be used as a practical difficulty for purposes of a variance application.

The SSTS servicing the property is compliant and will not be affected by the proposed access path.

The department would like to see the portion of the existing path that is wider than 6' be reduced to a 6' width and will need to see the site during the lot viewal before being able to offer a recommendation on the proposal. If the application would be approved, the department would recommend a condition that the 16' x 20' turn-around area must always be kept open and free of any items such as chairs, tables, etc. so it is not used as a platform.

Below are proposed findings of fact for your consideration:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes () No ()

Why or why not?

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

Why or why not?

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

Why or why not?

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

Why or why not?

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

Why or why not?

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

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

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Variance Application 28-V-17 by Shawn Gray: Lots 1 – 3, Block 2, Kola-Teepee Park, Section 10, Township 141, Range 35, Arago Township on Hay Creek, a tributary. Parcels 02.38.01000 and 02.38.01200. Applicant is requesting a variance from Section 904.6 of Shoreland Management Ordinance to exceed the maximum 25% impervious surface area allowed on a lot.

Enclosed Documents:

- 2011 aerial photo with subject property highlighted and 2' elevation contours shown
- 2 - 2017 aerial photos of property
- Application for State Deed for Tax-Forfeited Land for parcel 02.38.01200
- Env. Services Dept. impervious surface area calculation for parcels 02.38.01000 and 02.38.01200

The request is to exceed the 25% of lot area impervious surface area threshold by expanding the customer vehicle parking area on the property which will bring the impervious surface area to 37.6%. The proposed parking lot expansion will be 85' x 100' and have two approaches onto Inlet Circle which is a township road adjoining the north boundary of the property. It is not known if the township has approved these two proposed approaches. A request for this information was made to the applicant who stated by email that the information would be available at the public hearing. The application states that a low area to the west/northwest of the parking lot expansion area will adequately treat the expansion area's stormwater and an existing grassed area along Hay Creek will serve as a secondary backup buffer.

The SSTS servicing the structures on the lot is brand new as of June this year. The department recommends looking during the lot viewal to see if the parking lot expansion area and its elevation will cause stormwater runoff concerns for the new septic system mound.

The department will need to see the site during the lot viewal before being able to offer any recommendation on whether the proposed stormwater mitigating measures will be adequate and if the new mound drainfield will be safe from any negative stormwater influence. The department recommends acting on this variance before taking action on the accompanying conditional use permit application as the latter is largely dependent on the outcome of the variance request.

Below are proposed findings of fact for your consideration:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes () No ()

Why or why not?

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

Why or why not?

3. Is the stated practical difficulty due to circumstances unique to this property? Yes () No ()
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Why or why not?

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner?

Yes () No ()

Why or why not?

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

Yes () No ()

Why or why not?

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

Yes (X) No ()

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