

## HUBBARD COUNTY

### Planning Commission/Board of Adjustment Meeting Minutes

6:00 p.m. on Monday, June 24, 2019

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

Petersen 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:** May 20, 2019

Andres made a motion to approve the minutes as presented.

Grob seconded the motion that carried unanimously 5-0.

#### Old Business:

**Conditional Use Application 4-CU-19 by Chris Bolton:** Part of Outlot 5, Long Lake Park, Section 20, Township 140, Range 34, Henrietta Township on Long Lake, a recreational development lake. Parcel 13.42.05000. Applicant is requesting a conditional use permit per Section 401, Table 1 of the Shoreland Management Ordinance to operate a recreational vehicle campground.

Chris Bolton, 18080 Emerald Island Circle, Park Rapids, MN, presented the application along with his attorney Jeremy Klinger, Sue Smythe, and Tom Klemenhagen with Land Team Incorporated.

Bolton stated with the exception of the individual RV site sizes, the Shoreland Management Ordinance accommodates my entire RV park plan. I have requested and received only one variance, which is to have 2,400 sq. ft. sizes. Not because I needed smaller site sizes to do the park, but because this variance makes it possible to have the entire RV park in Tier 2 of my parcel, as far from the lake as possible. Last fall the County Board requested a grading plan and a stormwater plan designed by a civil engineer, but instead of giving me a chance to provide these documents, they declined my project. You now have both of these plans. Last month the Planning Commission tabled my conditional use permit request because they wanted a landscaping plan and a hydrology report, both designed by a civil engineer. I have provided both of these plans. I have provided every document and every report that County officials have requested over the past year. The number of people that support my RV park far surpasses those that are against it. Unfortunately you aren't getting letters from those that support me. You only hear repeatedly from the same small group of opposition. Complaints and letters sent to the Environmental Services speaking out against my RV park are filled with inaccurate claims and information that doesn't apply to my park. I am asking for a small 14 site RV

park. It isn't going to destroy the neighborhood or have a negative impact on Long Lake. Traveling the Country in RVs has become very popular. Our area needs more places for RVs to stay. Please let me help keep people in Park Rapids area supporting local retailers, restaurants, enjoying our lakes, and visiting Itasca State Park. Hubbard County Shoreland Management Ordinance does allow the RV park I dream of and have been fighting for over the past year. Tonight, I have with me my attorney, Jeremy Klinger, and at your request, Tom Klemenhagen, the civil engineer that owns Land Team and also drew up the project plan.

Grob said I would like him to go through the documents that we have requested.

Petersen added the documents that we asked you last month to bring; number one is an estimate of the project cost. The only question I have on this is that you are telling us that you are doing the grading work on this project yourself?

Bolton replied I am going to be doing it myself and if there is need, I will tap into Sandquist Construction.

Petersen asked could you give me an idea of what that necessary need might be.

Bolton answered it could be that I want some dozers for pushing the dirt around and making the flat spots for all the sites.

Petersen continued my background is in residential construction and what I am going to ask what is your background in excavating work?

Bolton replied right now I am full time with Sandquist Construction and running heavy duty equipment every day. Ending in 2012, the seven years prior to that, I had a landscaping company. One of the larger projects I did was landscape for a Walmart. I did all of the landscaping for the Walmart in Moorhead, the Dilworth Walmart. I did hundreds of homes and patios. I have had a lot of experience with that.

Petersen said continuing on with that point; we have the engineering document showing grades for your proposed site. Are you planning on having this surveyed before you start, showing elevations for you to work off of? How formal are you getting on that?

Bolton answered we are able to base things off of the road height. We are going off of the height of Emerald Island Circle. We will take shots ourselves from that. We did that on our pre-mapping where we did the heights. That is how we will do it.

Petersen asked tell me again how long have you worked in the excavation field?

Bolton responded I have been working with Sandquist, I just started this year, but I have been doing landscaping for seven years that I had my own business and then I worked before that with another partner.

Grob asked if you are going to do that yourself, do you have a full time job doing construction work?

Bolton replied yes I do right now.

Grob asked how much personal time do you think it is going to take you to do this whole project? Did you also say that you are going to construct the bathhouse yourself?

Bolton answered no. I have Ray Eischens as the builder for that.

Grob said that is not what your document said.

Bolton explained I will help with some of the work there, but he is going to be the general for that.

Grob read, "The grading, construction, trenching, and bathhouse construction will all be done by me."

Bolton clarified I am going to be helping, but not in charge of the bathhouse. I will be laboring along with Ray Eischens.

Grob added that statement is incorrect then that you made. You are not physically doing the construction of the bathhouse.

Bolton replied just the bathhouse. It has to be perfect and I chose a builder that has built many homes and buildings in the area.

Petersen said let's move on to some of these other documents that you have provided us with then. You have a post-construction revegetation plan for the entire area prepared. Instead of a landscape architect, we have your engineering firm do that. We also had, provided by the same company, a stormwater management plan for both during construction and post construction, designed to handle a 2" rainfall. Also we have an updated grading site plan that shows the proper driveway location onto Enchanted Drive, prepared by a licensed engineer. As long as I mentioned that one, that driveway and exit location there on Enchanted Drive, I think I was asking you the other day on lot viewals about the culvert, what are your feelings about doing something with that.

Bolton responded the next day I was able to meet with Henrietta Township. We met on the site. They actually have had problems with that road and a number of other roads in Henrietta Township, and that is one of them that they are having a civil engineer design a plan because it is constantly eroding along the sides. That sand ultimately ends up right there at my culvert. About six or eight times I have had to clean out the culvert and I did again yesterday. Russ Johnsrud from Henrietta assured me that is a project that they are looking into and they will have a solution to it at some point. At that point there won't be any problems with the culvert filling up there.

Grob asked your revegetation plan document, you show no revegetation on the hillside between the fence and sites 5-11. I think one of the proposed conditions we made was that it was to be covered with shrubs and other vegetation. Is there a reason why you did not include any revegetation on that hillside?

Bolton explained instead of that we are having the privacy fence, the six foot tall fence back there.

Grob continued I am more concerned about erosion than privacy in this case. It is a condition that we placed last month and we expected you to show that on your plan.

Klemenhagen stated I am with Land Team engineering. The vegetation replacement plan is actually shown as part of the SWPPP document. It is on page 2 of 4 in the original documents.

Grob asked of these documents?

Klemenhagen clarified the original documents that were submitted. Page 2 of 4. It is called an erosion control plan.

Grob asked that was in May?

Klemenhagen said I imagine it was May.

Grob stated that was erosion control during construction.

Klemenhagen added and post construction. This project falls under Minnesota Pollution Control Agency's National Pollutant Discharge Elimination System permit. Which means that the permit plans are put together, the SWPPP plans that are put together, cover both during construction and post construction. This shows the revegetation for the whole scope.

Grob said that was your plan. We had under a condition that we expected you to do some shrubbery in that area. I am just asking why you didn't.

Bolton said those lots are going to be dropped down when we have the privacy fence.

Grob continued I am worried about long-term erosion.

Klemenhagen stated that is what is shown on that SWPPP plan. If you can find that document, page 2 of 4, you will see that document shows that slope to be revegetated and protected post construction. This isn't during construction; this is post construction, with a proposed category 3 erosion control blanket. That is the best way to stabilize that sandy soil.

Grob commented you answered the questions. There is going to be an erosion blanket on that hillside.

Klemenhagen added and on all of the steep slopes there are erosion blankets shown on that document on page 2 of 4.

Johnson asked that would also cover the inside of each site?

Klemenhagen answered any place that is shown on that plan; we consider those steep slopes and called for extra stabilization for them to be armored with an erosion control blanket. Sandy soils have a tendency to erode. Any steeper slopes, we called for those to be stabilized with an erosion control blanket.

Johnson asked he shouldn't need any outside dirt?

Klemenhausen replied as far as the dirt is concerned, the first time we ran it, Bolton wanted to be a little closer to the north property line. We ended up with a great deal of material that needed to be brought onsite. We re-ran it, pulling the site a little bit further away from that north property and dropping it down, which I think helps the property to the north visually, not being able to see the site, and it also helps Bolton in the fact that it is a dirt balance. No material needs to leave the site and no material needs to come in, it is just moving material onsite.

Petersen asked could you comment to me in general about the feasibility of this project on this site with the slopes we have. How difficult or not that this project can be done the way that it is shown on paper.

Klemenhausen stated it is definitely doable. We have done a project very similar to this. All the slopes are 4:1. We do have a couple spots where they drop to 3:1, but for the most part all the slopes are 4:1. It is definitely buildable.

Petersen continued looking at your engineering plan, on the pad sites 1-4, when we are finished it is hard to get, just by looking at the plan, an idea of the change in elevation between each of those pads. We are going to have a drop in elevation or a rise going up. Are we showing that on this engineering plan?

Klemenhausen replied you can see by the pad elevations that are shown on there. Within the pad areas, you will see the existing ground contours shown a little bit lighter. For instance, on pad 4, the north end of pad 4, the existing elevation is around 1325 and the pad is supposed to be at 1420, so that very northwest corner of pad 4 would have to be cut in, but then by the time you get to the southeast corner of that pad, it is at grade. As you look at it from Emerald Island Drive, there would be a little bit of a cut at the northwest corner of lot 4 and by the time you get down to the southwest corner of lot 1, you are going to be in fill again. As you can see, the pad elevation is at 1411 and the existing ground elevation in that area is at 1408. So there would be 3 feet of fill in that corner. But as you go to the north from pad 1 to pad 4, pads 2 and pad 3 are almost at existing elevation. You won't see very much of a grade difference from Emerald Island, the biggest grade change is on lots 5-11. Those had to be cut quite a bit in order to keep the road at a fairly level grade and a fairly level difference between lots. You can't have a great difference there if these RVs are going to back into these lots, they have to be pretty close to the same grade. So what you are doing here is cutting along that north property line and you are filling in. There is a lot of fill that goes in on lots 12-14 to level it out. That is where all the material in lots 5-11 would go. There really isn't a lot of difference in the grade at the road between lots 6 and 12. That road is roughly at grade. Because they are relatively flat pads, you had to cut on the north side and fill on the south side. It is just a dirt balance.

Petersen said one of the concerns that I have heard repeatedly is on pads 1-4 and the road coming down in front of them. Since you have laid this out, do you feel there is adequate room there to access these pads?

Bolton added a 9' road within a 25' area. When backing in, you have all of 25' to turn into to back you in your motor home or whatever it might be.

Klemenhausen stated he might be somewhat limited in the vehicles that can back in here. I don't think they are going to be smaller units. They are not going to be those monster RVs that you see at Mystic Lake Casino. I am sure they can get them in and out of there if it is graded to these grades, they will be able to get them in and out.

Petersen clarified you commented that pads 12-14 would need some fill there. Are we thinking that would need compaction on those?

Bolton added that is one of the pieces of equipment that we will be bringing in is a big packer.

Klemenhausen responded it all depends on the conditions at the time of construction. Sand takes a lot of moisture. In order to achieve maximum density, you really have to pour the water to it. For an RV site like this, just the action of the equipment moving on it is going to compact the material. It is sand, not clay. There are no pockets. It is going to work its way in and if it doesn't end up looking exactly like this, that is fine. As long as he gets it close to this and it functions for the purpose that he has intended, that is fine.

Christenson asked you said that the RVs coming in would be smaller in size, is it because the sites won't be large enough to handle a large RV. How would you know what size the RVs are going to be?

Klemenhausen answered turning wheel width. You are going to have a tough time getting the big RVs in and out of here, those big RVs are 53' in length. These pads aren't 53'. He is going to be somewhat limited in his clientele just because of the size of the units and getting it in and out of there. You might get one in here and leave it for the summer if he rents that way. I don't know how he is planning on renting. It depends on the number of trees that he leaves in here too. The more trees he leaves in here, the harder it is going to be to get the vehicles moving around. He might be better off planting the trees after he realizes how the movements are going to take place within the park.

Grob added I asked the question at the last meeting and I am not sure that I had an answer. What is your estimate of the amount of fill that is going to be required to enable lots 12, 13, and 14? By the numbers you are adding at least 7 feet, I think, from some of the contours that exist and then you are going to have a 10'-11' drop from the end of the pad down. That seems like a lot of dirt. I tried to do a calculation and I was amazed at how much of the dirt that is moved is going to end up there.

Klemenhausen replied we have a computer program that does that for us. We have to put in the two surfaces, the existing surface and then the proposed surface. We compare those two surfaces and the computer program tells us the amount of dirt that is generated both in cut and in fill. In this case I believe the cut volume was 4,800 cubic yards and the fill volume was 3,800 or 3,900 cubic yards. If he really does get it compacted, we figure sand at a 1.2 compaction factor. That means from its natural state, when you compact it, it actually gets smaller. If you were to take a cubic yard of natural state sand, and put it in a 3' x 3' x 3' box and compact that material, it will compact by a factor, you will have about 80% of the same volume. 1.2 is the compaction factor. In Bolton's case, it wasn't intended that way it just worked out that way; he is going to end up with a balance. On his site, we

didn't necessarily strip all the tops off, which is the normal procedure. We would normally go through this and strip the tops off and then figure the dirt based on the good material. We didn't in Bolton's case because it really isn't going to matter where he puts the top soil. Our plans and the SWPPP documents that he is actually going to submit to MPCA shows that he has to put a minimum of 4" of topsoil back on. I am sure there is more than 4" of topsoil out there now, so if he is selective in how he does his grading and puts the topsoil off to the side and puts it back on, he is going to end up with more topsoil than 4". We didn't really care if it was topsoil or good material, there is going to be a compaction factor of some type and it is going to be generally balanced and he is going to end up moving about 4,000 yards of material.

Grob said my calculation of about 3,500 cubic yards to enable 12 and 14 isn't a bad number then.

Klemenhagen said it is very good.

Kovacovich asked what is the proposed lot size after the sloping, how much usable flat space do you anticipate to have on each campsite?

Klemenhagen replied it would be the 2,400 sq. ft because the sloping isn't done within the pads; it is all outside of the pads except for lot 14, lot 14 we squeezed it in a little bit. But those boxes that are shown on there are the lot size that he is asking for the condition, which I think are 40' x 60'. All of the major grading takes place outside of the 40' x 60'. Like I said, if you look close on lot 14 we squeezed it a little bit just down to what we figured we would need for the RV. And there is some grading across each one of the lots, a very small amount, but they have to drain. Even though they are supposed to be flat, they have to drain a little bit. There is a little bit a grading between each one of them, but for the most part, they are all flat. Maybe 1% or 2% across the lot and that is about it.

Petersen opened for public comment.

Clifford Sweeney, 17517 County 107, Park Rapids, MN, said I am not going to mention any negative comments because you have probably heard them 15 times already. What I don't understand is there is a piece of property at 17504 that past years, the owner wanted to make a duplex out of it, it was disapproved due to the fact that it was a single family housing unit area. Well, you are going to allow a campground in there? I just find it awful hard to believe. We wasted a whole year back and forth and we have accomplished absolutely nothing and I feel it is going to stay that way. Just one item I have right now, in this estimate of cost, nothing is mentioned about the fence. Is that going to magically appear with no price value on it? Just in line with that, my request would be, if this goes through, that the fence would be built before any construction starts. We started out demanding a full length of the north property line, 8' high. We have now dropped that down to 6' for 100' or 200', it covers my area so the other person I can say really doesn't matter. My time is running short, we were in here a week ago Saturday, we had a lake here and this would be for Buitenwerf, can you verify 100% that the septic system on this property now is sealed with a drainfield? In other words, it is not a soft bottom tank due to the berm? They checked mine six months after I moved in. The next person on top of that gives us something to think about. The new septics, are they sealed tanks going into a

drainfield, or are they just going to be run right into this drainfield? If you do, sooner or later that is going to be a sewage pond rather than rain runoff.

Bruce Johnson, 17413 Enchanted Drive, Park Rapids, MN, stated I would like to emphasize that really nothing has changed since the County Commissioners last year denied this conditional use permit. You can have another landscape plan, you can have another engineering plan, but in looking at this I have to say something has changed. If you could put up the map that you had up previously, you will see that this road is down here. This map has morphed from the one that was sent in May. I don't know how the road moved from approximately here to here, but it did. Could you put up page 203? It showed the road in a different place.

Grob explained during the discussions at the meeting in May, we asked him to change that road and to run it straight out.

Johnson replied I wasn't aware of that. Also, the size of the lots, Bolton at the lot viewal said there would be 5' taken from each of these lot lines. That is 10'. You are going from 40' to 30' He said when I make those terraces we are going to take that away. Those 2,400 sq. ft. is what you have here pre-terrace. I think that I have already pointed that out. The other thing that is certainly an issue is, as has been pointed out, Enchanted Drive has a road that is a problem. It is a problem because of the soil and the slope and gravity. I would like you to consider that everything on this side of the property line, the soil, the slope, and we can consider gravity a constant, is also going to apply. It is going to be an extremely difficult thing if you have the erosion in check. We have been told that after this is built, the soil will be more compacted. This is undisturbed soil. You are going to go through and cut down at least 90 trees, you are going to dig up that area and put in infrastructure, electric, water and sewer, and then you are going to terrace it and you are telling me that that soil is going to be more compacted? I am not an engineer, but I question that.

James Seifert, 17723 Enchanted Drive, Park Rapids, MN, stated I am a neighbor that lives about a half mile down from Bolton. I have four questions for the Commissioners, but they may wish to ask for more clarification of these questions. How long is the RV and the vehicle that tows the RV, that is currently on the property? What is the design life of the erosion control blanket that is being recommended? Have the engineers calculated the impervious surface area in Tier 2? The Hubbard County Shoreland Ordinance, page 60, requires that impervious surface coverage within a Tier must not exceed 25% of the Tier area. I would like to know what the engineers have calculated as the impervious surface area in Tier 2. Has anything about this plan changed substantially since last fall? The location or size of the RV pads, the site of the road with the exception of the minor change, or anything else? If nothing has really changed, how would the findings of fact arrived at by the Commissioners last fall, substantially change? Regardless of the additional data that has been provided. A lot of additional data has been provided, but what has substantially changed about the entire project that would change the findings of fact that were arrived at last fall by the Hubbard County Commissioners?

Sharon Natzel, 13623 County 20, Park Rapids, MN, said I am speaking about 19 lakes in Hubbard County that were analyzed using a rapid assessment model by the DNR in

2012. The parameters there are important for determining lakeshore sensitivity. The parameters there were wetlands, hydric soils, rare features, loon nesting areas, and size and shape of natural areas. On these 19 lakes, there is a total of 60 areas in Hubbard County with the attributes thought of as sensitive lakeshore areas. One of the 5 areas on Long Lake analyzed with the rapid assessment model by the DNR in 2012 is where the proposed RV campground would exist. These parameters in the rapid assessment model indicate that there are places that provide unique or critical ecological habitat. These areas along the shore or in near-shore areas of the lake are crucial to the health and well-being of fish, wildlife, and native plants. Many fish and wildlife species, including many species of greatest conservation need, are highly dependent on these naturally vegetated shorelines as habitat for feeding, resting, mating, and juvenile life stages. Development and land alteration in the immediate shoreland and on the shoreline may have significant negative impacts on these species. Will a future case study in a Hubbard County school show that Hubbard County failed to support the Shoreland Management Ordinance and 19 lakes in Hubbard County were jeopardized by poor land management decisions. Thank you for caring for our Hubbard County waters, they are our primary asset. Many tourists come here to enjoy the fish and wildlife species that are protected in these areas.

Butch DeLaHunt, 17487 Driftwood Lane, Park Rapids, MN, said I live right behind Spruce Hill Campground that has 38 RV slips, which has a waiting list for RVs, and any time that any of those RVs in that campsite go up for sale, they are sold immediately because the demand in Hubbard County is significant for RV parks. This is an opportunity for our community to make the right decision. What has changed? That is far different from one year ago. You have engineering plans, you have vegetation plans, and you have received information that was earlier very confusing. This is a laid out plan, done by an engineer, which has far more to say about this project than I possibly ever could. There was a lot of confusion before, which has been eliminated in my mind. So I ask you to make the right decision, as tough as it is, but take into consideration that people are trying to find experiences in Park Rapids, Minnesota. I have stated it before, they come here in RVs to start with, they buy our cabins, they support our businesses, and they are our future. We have to show them ways to come here and it is very limited. I hope that you support it.

Jim Cashman, 17624 Emerald Island Trail, Park Rapids, MN, said I have attended both walk-throughs last month. I am very concerned about how much the land will be disturbed if this project goes through. I am a math guy, 14 sites at 2,400 sq. ft. is 33,600 sq. ft. There are approximately 43,000 sq. ft. in an acre. Add this to the space between sites, the steepness of the hill, the road, septic, parking area, bathhouses, and most of Tier 2 will be devoid of any trees and will be totally wiped out. Is this even legal? The project has 14 sites and 8 slips, all in a swamp. Last Thursday I asked Buitenwerf how many slips can Mr. Bolton put on his adjacent property, which is very small and is also on the swamp. Buitenwerf told me that there is no limit as to the number of slips that a private property can have. I presume that Mr. Bolton will dock his own boats at his other property and allow RV guests to park boats on his other property. This could mean 10-20 boats churning up our precious swamps. Lastly, last Thursday the Board drove down Emerald Island Circle and turned around at our closed road. Can you imagine an RV driving down that road and trying to turn around in that little spot?

Patty O'Reilly, 17600 Emerald Island Trail, Park Rapids, MN, said one thing I would like to point out is that it has been determined by Henrietta Township that Enchanted Drive is not sufficient for RV traffic. I know in this day and age any time people get directions they just go on Google. If you are coming from the east, it is going to tell you to go down Enchanted Drive. While they have mentioned that maybe Enchanted Drive will have work, which has not been approved. There are no guarantees that the road will get any better. You are going to have a lot of traffic going down a road that is not sustainable.

Molly Sebold, 17648 Emerald Island Trail, Park Rapids, MN, said I am strongly against this CUP. Since its inception, this proposal has generated massive opposition from the community due to numerous significant concerns regarding safety, infrastructure, and impact on environment. Just last fall, it was denied as we said because it failed 7 of the 12 findings of fact. It was not because of a grading plan. Very little has changed since last fall, in fact as stated by the Hubbard County Planning Commission/Board of Adjustment staff dated May 2019: "This application is basically the same application that was submitted last year in terms of the big picture." So there are many reasons for denial, well documented. First, there is no Bolton Bay. Mr. Bolton has been calling his rental site Bolton Bay and that is fine, but he goes further to interchangeably referencing the inlet water, which is just a swamp, and its only access to Long Lake is Bolton Bay. The swamp is not Bolton Bay, rather it is part of Long Lake and it is a public water way. Mr. Bolton's lakeshore is just about 10% of that swamp. Despite this, he is requesting a channel from his dock through the swamp to open water that would be 450'-500' long. That is for the measurement of Hubbard County Environmental Services. On top of that, he plans to add a swim platform at the end of the channel in open water, which would block access to the swamp, to the public waterway for any others who want to fish or kayak or whatever. This effectively turns a public water way into a personal one for the benefit of one small landowner. Further, it establishes a swim platform over 500' from the landowners' lakeshore. To my knowledge, there is no president on Long Lake, or any lake that I know of, of placing personal property so far out on the lake. I am not even addressing the safety issues of doing that at this point. Mr. Bolton has mentioned that one of the groups opposing the RV park used to run a resort. His inference is that these folks just don't want change and being hypocritical in opposing his proposal. He is talking about my family and Pine Island Lodge. I want to say that there is nothing about Mr. Bolton's CUP proposal that resembles Pine Island then or now. Pine Island is situated on almost 15 acres, heavily wooded land. The lakeshore is over a half mile. It is lovely, deep, sandy bottom like most of Long Lake. It consisted of 12 log cabins built 100 years ago and the log cabins were about the size of a small RV. It is not about being hypocritical; it is about comparing what is reasonable. I think this entire group wants change, but change should be good change. It should affect people positively. If his dream is to have an RV park, there are plenty of other sites that are more appropriate.

Petersen closed public comment.

**Written public comment received from:**

- James and Jona Seifert, 17723 Enchanted Drive, Park Rapids, MN 56470
- Christine Malstrom, 25266 W. Meadow Lake Lane, Detroit Lakes, MN 56501

- Jim Cashman and Mary Germscheid, 17624 Emerald Island Trail, Park Rapids, MN 56470
- Mary Walker, 17459 Enchanted Drive, Park Rapids, MN 56470
- Nancy Neal, 17747 Enchanted Drive, Park Rapids, MN 56470
- Lois Parsons, 27293 Far North Drive, Nevis, MN 56367
- Long Lake Area Association Foundation, P.O. Box 808, Park Rapids, MN 56470
- Long Lake Area Association Inc, P.O. Box 808, Park Rapids, MN 56470
- Carolynne White, 14388 Chippewa Loop, Park Rapids, MN 56470
- James Blodgett, 17437 Bay View Drive, Park Rapids, MN 56470
- Bruce Johnson, 17413 Enchanted Drive, Park Rapids, MN 56470
- Anne Dolan, 17485 Emerald Island Lane, Park Rapids, MN 56470
- Kerry Cashman and Bill Barnett, 17602 Emerald Island Trail, Park Rapids, MN 56470

Grob said Mr. Johnson brought up the issue of terracing between lots. If I look at this drawing that is up here, are those drawn 60' x 40'?

Klemenhausen agreed.

Grob continued so there is no allowance for terracing in between them to keep the 60' x 40'? It would imply that those are squeezed together closer than what would be allowed to have a 60' x 40' flat surface.

Bolton replied what happens is the 4' from the one site and into the next site 4'. There will be a slope there.

Grob asked so you won't have 60' x 40'?

Bolton clarified you actually do because when they figure the site size, it is the bird's eye view. If you go to Breeze and a whole bunch of other RV parks around, some of their sites aren't perfectly level either, but the size is how far one camper is from the next camper in the next site. And that is 40' x 60'.

Grob asked Buitenwerf is that the way that you would interpret the 60' x 40' is a bird's eye view?

Buitenwerf answered yes it would be that one unit per 2,400 sq. ft.

Grob said ok. The design of the erosion control blankets, are those specified by the SWPPP?

Klemenhausen explained that stands for storm water pollution prevention plan. As far as the erosion control blanket, it is biodegradable. It is only there until the grass has grown through it. It is there to hold the soil in place until the grass can do its job. That is not meant to be permanent.

Grob asked Buitenwerf for impervious surface, is it 25% per tier or per the whole lot? Is it per tier?

Buitenwerf answered it is both.

Grob asked has your staff done calculations on impervious surface on this Tier 2 area?

Buitenwerf replied yes and it is compliant.

Grob asked Mr. Seifert about his question on vehicle turn around.

Seifert repeated how long are the RV and its towed vehicle that are currently on the property, to give the Board an idea of the type of vehicles that will be there.

Andres added I myself have an RV camper that is 31' bumper to hitch and the vehicle pulling it is about 20' long. It will fit in those RV sites.

Grob asked Sharon Natzel you referenced a 2012 report that identifies 5 areas, I think I saw a document that spells that out, could you repeat all of the criteria that go into that?

Natzel stated the criteria for the rapid assessment model was wetlands, hydric soils, rare features, loon nesting area, and size and shape of natural areas. There is a total of 15 parameters and these are the 5 that went into the rapid assessment.

Grob asked Darrin Hoverson, DNR Hydrologist, there is no regulation on the number of mooring sites that a person can have on a dock? You can have one dock per standard shore width and no number of parking spaces, but there are constrictions on how wide of a path that you can make through vegetation to the lake? What other controls come into play when in fact DNR Waters or the Shoreland Ordinance has no control over the number of watercraft sites you can have?

Hoverson answered there are a number of questions there. The number of allowable mooring facilities or mooring slips associated with the mooring facility, is regulated by the local government associated with this CUP. This is the property that we are looking at right now. Are we talking about it or the next door property?

Grob clarified the next door property. The concern is that if there were restrictions in any way, that the guests would just be parking their boats on the adjacent property that is owned.

Hoverson stated on a property that is residential in a manner where there is not a conditional use permit or a regulatory mechanism like it, for all matters a docking allowance ordinance by the County, there would be an absence until they rent out seven or more slips. Then it would be a marina for the DNR's purposes. Local governments can regulate that at a tighter restriction, but for the number of allowed mooring spaces on any individual lot, that property owner has no restriction on the number of mooring slips. This can get out of hand at times and infringe on the neighbors. But there is nothing greater than a civil complaint that can be addressed between two property owners. There is a condition of a permit possibly. Vegetation alteration, they are allowed a 15' wide path out to open water. Every property is allowed that without a permit for lily pads primarily which was the case here, and then up to 2,500 sq. ft. of vegetation for a swimming area. That

would be essentially what the DNR's recommendation would be, and then continuing to maintain that existing path.

Grob asked how about restrictions on non-owner watercraft. In other words, if I own a piece of residential property and I have a dock, I decide that I am going to put 5 boats there, but 4 of them are friends of mine who bring and keep their boats there? Is that restricted by anything such as controlled access lots?

Petersen asked is this a question for Hoverson?

Grob clarified I am looking both ways. This area, nobody manages. The DNR does not manage and the County does not manage what people do in that area with boats.

Hoverson stated the DNR regulates a mooring facility, which is seven or more watercraft on a single property and when they begin to rent it as well. Those have to provide what we call ancillary services associated with a marina as well. There is definitely a grey area there. I have plenty of resorts for example that have large mooring facilities on a harbor on these large lakes that have a lot of slips. Most of them do not have marinas as part of their business function. In an example case, there is not a restriction on the number of allowable mooring spaces unless they are determined to be a marina, for the DNR's purposes.

Grob continued that is for the personal watercraft, but could somebody else be storing and parking their boats there?

Hoverson explained anybody with permission from that riparian land owner who has permission to do so. There is not something to say that you cannot let your friends moor on your property as well.

Grob asked permanently?

Hoverson agreed permanently.

Grob asked that does not fall under the fact that there is no controlled access lot allowed in the county?

Buitenwerf clarified a controlled access lot prohibits the conveyance of rights to access the lake to a non riparian lot, or a riparian lot, but you are conveying rights that accompany that property to access the lake on that access lot.

Grob asked the people in this campground wouldn't be considered controlled access lot equivalent because they are not riparian lots? I am trying to get into this issue of could guests at the campground park their boats on the dock of the adjacent property? Other than us placing a condition on this conditional use permit that would prevent it, there are no other regulations that would control that?

Hoverson replied from the DNR's perspective, there is not.

Grob said we would have to put a condition on it if we didn't want that to happen in the long-term.

Buitenwerf added I don't know how you could realistically try to administer that.

Grob stated there will probably be 77 sets of eyes up and down the road watching it.

Buitenwerf explained we do not have the ability to.

Grob continued I do not want to overdo this point, but somewhere along the line the State and the County have to get some control over that.

Andres commented I was going to clarify the fourth question from Mr. Seifert for what has changed, besides the additional documents and data. I was not on the Planning Commission a year ago when it first came on, but I have reviewed that application and this application and what has changed that I have noticed are the engineering plans, the revegetative plans post construction, stormwater management plans have now been given as well, and extra septic has been added there as well. Those are just some of the things that I have seen that have changed.

Grob asked the document that had to do with stormwater control, the modeling that you did would indicate that a 2" rainfall, with the current conditions of grass, that virtually there would be no water accumulation in the low parking area, and yet there was a piece of documentation provided that there was a foot of water after a 2" rainfall a week ago. Could you explain, if that was the situation now and then we are going to add all of those vehicles, it seems there is going to be a lot more runoff. Could you help me understand?

Klemenhausen explained when we do the hydraulic modeling we look at a number of different conditions. One of those conditions is the soil type. In this case, the soils maps indicate two different soil types on the property as you can see on the SWPPP plan that was up on the screen a little while ago. Part of the Minnesota Pollution Control requirement is that you show the soils on the property. Those are the heavy lines shown on there and those large texts indicated different soil types. There are two types of soils that are represented on this site. One of those soils has an expected infiltration rate between 2" to 6" and the other one was well over 6". We chose to use an infiltration rate of 2", which was considerably conservative, based on that infiltration rate, the hydraulic modeling, and the fact that when this development is done it does have an increase of almost an acre of new impervious surface. We considered the whole 40' x 60' lot area as impervious, which we know it won't be. We considered the roads. We considered the bathhouse. They all total about 40,000 sq. ft. which is just about an acre. When we ran the modeling, the way we run it is that we run it pre-development in its existing condition, and we run it post development. Because of the soils here and the rapid infiltration rate, it didn't show a significant change. The only significant change showed that in the ponding area down by the driveway bounced about 2/10ths of an inch. We ran this all the way through a 100 year stormwater event, with an infiltration rate of .8" per hour and it still didn't overflow those depressional storage areas. It all depends on intensity. We are running these storm events based on a 2" rainfall over a 24 hour period which peaks at some point. Maybe it did fill up a foot, but it didn't sit in that depressional storage area very long. I don't know what the intensity was when that even occurred. When we run these we run them over a 24 hour period during a normal event. Intensity changes it considerably. If you get a heavy 3" rainfall in 2 hours, that doesn't fall on our charts.

Grob asked does the length of grass have an effect, besides the infiltration rates? If there is nothing holding it back, it will run off faster too-right?

Klemenhagen replied it definitely affects it. The short grass over the long grass changes the coefficient of the runoff. Yes it does change it, but in this case the soils were so sandy and gravelly that it doesn't change it by that much. We were considering it too. Does it overflow the depressional storage when you go into post construction? No it does not. Even at a 100 year event.

Grob said your key criteria are no overflow and runoff to the lake you believe is pretty solid?

Klemenhagen answered I believe that it is the best information that we can get with the computer modeling that we have available.

Christenson added we live on a bluff and when we purchased our property, it was terraced and we had a landscaper come and look and he told us that the bluff is going to fall into the lake if we didn't do something. One of the things that we did was to plant crown vetch because it goes six feet into the soil. So Bolton, hearing about the erosion blanket lasting only until the grass comes through and then seeing the amount of trees that you are cutting out, and your budget for landscaping is only \$2,000. I am wondering what is the size of the tree starts that you are putting in?

Bolton replied we were going to go with 1 ½ inch caliper.

Christenson asked how tall would the tree be then?

Bolton answered 1 ½ inch Autumn Blaze Maple would be in the neighborhood of 8'-14' tall.

Christenson asked how about the pines?

Bolton stated we aren't replanting any pines, there are going to be a lot of them left.

Christenson clarified the Norway Pines that are on here are the existing ones.

Bolton agrees.

Christenson continues have you considered putting something in addition to grass to help stabilize?

Bolton replied outside of the erosion blanket and grass, grass is going to be really effective.

Christenson added I would encourage you to look into crown vetch because it is designed to stabilize and it spreads rapidly and has beautiful flowers on it if you don't mow it. Getting back to the raft, I was not at the lot viewal, but it was my understanding that your floating dock was actually lying on the floor of the lake because there is not enough water in the bay for it to float. I think this spring, at least on our lake, we live 10 miles north, has been one of the wetter springs and our lake has been up higher than other years. I am

wondering how boats are actually going to get in and out? Secondly, on Darrin Hoverson's plan he has the area around the bay as an area that is not supposed to be disturbed. How are you going to have that monitored so that people do not park their jet skis or canoes or anything else when they are coming in, even for lunch?

Bolton said I will answer the first one about the float. My first float is 8' out from shore and it is partially in the surface. The other ones are floating, and if the first one was out further than 8' it would be floating too.

Christenson asked what is the water depth right now of the other docks?

Bolton replied I don't really notice it as being higher, with the dam that we have on the south end. It really controls it. It seems about the same height as it has always been.

Christenson asked can you tell me how many feet there would be of water?

Bolton answered at the end of my dock it is probably about 5' deep. Also, keep in mind the plan that Hoverson put together, the boat slips start at 88' out. They would be in the no mooring area. I talked with Hoverson in extensive detail about that and I said since there is no mooring behind the dock and then over on the side and I asked if I should go ahead and put buoys and make it so people can't get in there. I am not allowed to do that because it would prohibit other people from getting in there.

Christenson asked how will you monitor that?

Bolton replied it is going to be in the rules and guidelines for the camp. I will also have a sign down on the dock explaining that is a no mooring area. However, people that come in, as soon as largemouth bass season opens, there is a flood of boats that come into Bolton Bay. There is nothing that I can do to prevent them from going right up into that no mooring area.

Christenson asked how will the swimmers from your campground access the raft?

Bolton responded people have gone out in paddleboards, paddleboats, or they can take canoes.

Christenson asked how will those be stored and have access to when they get on and off?

Bolton replied stored right on the dock. They will have to carry them up onto the dock and walk up.

Christenson said it is my understanding Mr. Bolton that you have taken care of all the outstanding violations. I think one of the things that people might be questioning because of your past and doing at least one thing repeatedly after you were told not to; how have you proven yourself trustworthy that they know you are going to run a clean campground like you said you are going to?

Bolton answered I think the fact that jeopardizing any of these conditions; I would have so much to lose. That is why they are taken seriously. During the last walk through

Buitenwerf noticed that I flagged the no mow so whoever is mowing there won't get into the no mow. We will take it really seriously.

Petersen stated I want to go back for a second to the raft. Can you tell me where you are planning on putting this raft?

Bolton answered I talked to the Hubbard County Sheriff to see just where I am allowed to do it. I haven't yet secured a permit for it, but I explained where it would be. It would be just outside in about 10'-12' of water so it would be deep enough if someone does dive off from it. Not right in my 15' path out to the lake, but it will be just off to one side or the other.

Petersen said this is a question for Hoverson or Buitenwerf, are there any restrictions that either the DNR or Environmental Services would have on that? Is there anything we need to look at in regards to that issue?

Hoverson answered from the DNR perspective, we do not regulate those rafts outside of size. I think 8' x 8' or 8' x 10' is the typical size. It needs a permit from the local Sheriff's Office. If it would be from a navigational or safety concern, that call is still normally made by that local Sheriff's Office.

Petersen clarified there is a size limitation on the raft?

Hoverson replied there would be. I can tell you that I have had rafts that are three stories tall that I did take jurisdiction over. I said they would need to be removed. People get creative. In this case it seems to be the normal size and the DNR would not normally permit them. That is up to the Sheriff's Department. The concern about navigation, I am consulted on at times. I don't actually like to see them in 10'-12' of water because that is where boats are normally at. The reality is if you look at other rafts on the lake, same thing as dock length out into the open water, how far is it normally out? You can look at other rafts there on the lake, if it is 50' or 100' from the weed line. People start to understand how that relates to their lake.

Petersen asked as far as navigation there is no requirements to have markers or reflectors?

Hoverson explained that is all part of the permit. You would have to comply with that. Even in regards to navigation, Mr. Bolton didn't know about the depth of the water. You may be able to sink 5' into there, but the water depth under most cases is not quite 5' tall. The DNR understood that too. Our recommendation was to provide you with what we think will be the lease impact, knowing that if a CUP was to be applied for it could be up to 8 mooring slips. You don't have to ask that of us. You can go ahead and authorize it. In a case here, the recommendation here is that boats come in with their boat motors up to have less disturbance so they are not shooting down, trying to address the shallow nature of the bay. You have all been on the end of that dock, it is shallow. We haven't been out another 15'. I am not sure exactly how deep it is. Our recommendation includes some disturbance items.

Petersen asked Buitenwerf to pull back up Hoverson's recommended dock lay out. When we are talking about no mooring, what exactly are we complying with?

Hoverson stated as a private riparian user you can't interfere with the public's right to use the water. It is the same thing with someone putting a string between two docks so people can't fish in there. That is more what I am more relating to, even if a bass fisherman wanted to go up there or a kayak. It does become very difficult to regulate that, but when it comes to a recommendation, it is to notify your customer that is what is not expected of them as a use. As the onsite manager, that they correct those actions when they occur. That is why I would say it is difficult to post it for the public as a no mooring/no use area, but we would expect that no customers are mooring on that dock.

Petersen clarified no mooring, but say he has a customer that is our kayaking and they decide it is going to be easier for me to pull up on shore to get out of my kayak. Regardless of what they do with it after that, I am just asking if that type of action is what you are trying to prohibit by this no mooring?

Hoverson explained that is a limited disturbance. A kayak is pretty light disturbance, but when you start talking about beaching and leaving it there. I have been to many resorts and I have worked at many resorts as a kid in this area, and an onsite manager should have control of their customers. There are going to be people who are going to sway from that, but the expectation is that they address it.

Petersen asked the action that I just highlighted there, we are trying to prohibit that. I look at mooring as parking, but we are trying to prohibit people from beaching there.

Hoverson stated the past history of the violation there, that area is highly sensitive and it needs to take time to revegetate. It has a layer of moss right now and it will take some time. I am not saying a kayaker in there is going to cause some significant disturbance. The expectation is that you keep all the motors out of there for sure and mooring out of there. If somebody brings a kayak or canoe in there and they come out the side, you direct your customers to where they should be doing those actions. This is a DNR recommendation.

Petersen said as I did last month, I am going to read the conditions that we had placed and then if the Board has questions or if they want to add to them. We will make sure that everyone is clear on that and then we will have a motion to see what we are going to do.

Petersen read the proposed conditions to consider:

1. This conditional use permit (CUP) is for the operation of the entire premises as one recreational vehicle campground 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. Fifty percent of the shore impact zone (SIZ) on the property must be preserved in its natural state per Section 1013.4.H of the Shoreland Management Ordinance. This preserved area will consist of the west half of SIZ on the

property measured from its west boundary line shared with parcel 13.29.02000 and running 101.5' northeasterly toward the eastern side lot line of parcel 13.42.05000 as depicted on attached Exhibit A. This area cannot be mown or otherwise manipulated. It must be allowed to remain in natural vegetation and self-manage.

3. Environmental Services will monitor the corrected shore impact zone vegetative alteration violations for a five year period of time to ensure the violations are not repeated.
4. The use shall only operate from April 1 to October 31 of each calendar year.
5. A maximum of **(fill in allowed number)** recreational vehicle sites are allowed to be located on this property in the locations shown on the application grading plan (sheet 1 of 4) attached as Exhibit B. Seasonal customer RVs may be left onsite outside of the April 1 to October 31 operating window.

Grob asked Buitenwerf is Exhibit B, is this the most recent set of documents that we were given? I want to make sure that we are all working off the same thing, we have a new set of plans.

Buitenwerf answered it would be the grading plan that was in the additional materials that Mr. Bolton submitted for this meeting.

Grob asked is stating Exhibit B sufficient for identifying that?

Buitenwerf replied for now, yes.

6. Quiet hours where customers shall not generate noise that disrupts surrounding property owners shall run from 10:00 p.m. to 7:00 a.m. daily during the April 1 to October 31 campground operating window.
7. The use shall have a full-time onsite manager or employee present on the property or available by common means of communication who is able to be onsite to respond to an incident, need, or complaint within four hours of being contacted about such during the April 1 to October 31 operating window.

Grob stated I would like to ask Mr. Bolton how he intends to fulfill that condition. He works a full time job; he will not be home during the day. Four hours actually seems like a long time. How will you accommodate that?

Bolton answered I will be reevaluating my work schedule after the park would open. I am full time right now. When the park is running, I will need to be at the park.

Grob continued the home that is there, that is your permanent residence?

Bolton agreed.

8. The existing residential house on the property shall only be used as an owner's/manager's residence. It shall not be used as a rental unit. Only one such non-rental dwelling shall be allowed on the property.
9. The access roads to the RV campsites and their approach locations onto Emerald Island Circle and Enchanted Drive shall only be located as depicted on the application grading plan. The existing driveway providing access to the existing residential structure may remain. No other access roads or approaches onto these two township roads are allowed. The access roads to the RV sites shall be no wider than 25' with a maximum 9' wide graveled surface centered therein. The remaining 16' of the roadway width (8' wide on either side of the 9' wide graveled surface) shall be kept in a dense, permanent grass cover vegetated state.
10. All RV site surfaces other than the 15' x 45' concrete or gravel RV parking pads shall be kept in permanent dense vegetated cover.

Grob said permanent dense vegetated cover seems inconsistent with a lot of foot traffic that is going to occur. Are we writing something that is not enforceable? Maybe with permanent vegetated cover, but if you say permanent dense vegetated cover, I don't think it is going to last with the people's activity. I am questioning saying permanent dense vegetated cover. I can see that on the slopes in between, but I can't see it with the normal foot traffic or fire pits. I am just raising the question if that is really enforceable.

Discussion ensued about wording of the condition.

Jeremy Klinger, attorney for Mr. Bolton, stated maybe I can offer the Board a suggestion on that if we are concerned about maintaining the vegetation for that condition. Can we put something just to refer to the plans that were submitted that as a condition of this permit the vegetation be maintained pursuant to the plans submitted to by the Board.

Grob replied only because this is much more explicit and identifiable versus that plan, I don't know.

Petersen added we will take that into consideration.

11. All RV sites shall be provided with electrical service and water and sewer hook-ups.
12. The three septic systems proposed to service the RV sites must be installed and issued certificates of compliance before this conditional use permit's operating permit shall be issued.
13. The use shall have only one dock with **(fill in allowed number)** permanent watercraft mooring slips and said dock shall be installed exactly according to the dock layout and dimensions plan shown on attached Exhibit C.

Grob said I would like to add there that guests would not be allowed to moor watercraft on adjacent property.

Klinger said I would like to object to that condition. I don't think the Board can regulate the adjacent property as a result of this permit.

Grob stated I disagree with you.

Buitenwerf added for what it is worth as staff, I would agree with Mr. Klinger.

Grob said if it is our responsibility to protect the waters, the disruption of vegetation, and the wildlife, on the basis that multiple additional watercraft from guests in the campground would bring additional loading to that bay, I would think that we would have the power to control that by not allowing this to happen. It is our responsibility to protect the waters and knowing that this is most likely to happen, it would seem reasonable that we should try to control it.

Johnson added would you make the same condition if it was his lifelong best friend that owned the property?

Grob replied yes. Because of the load on that bay for people who do not own that riparian property.

Kovacovich stated I do not believe that we as a Board can put restrictions on this CUP that affect another property that is not part of this application. If we are going to go that far we would have to be willing to put restrictions on every property owner on a sensitive area every time someone applied for something of this nature in that area.

14. The applicant will provide verbal and written notification to all customers of this RV campground that there is a no-wake zone requirement throughout the bay of Long Lake that this property abuts. Signage stating this no-wake zone requirement must be placed at the landward end of the dock authorized by condition 13. Written notice of this requirement must also be placed in the RV campground customer contract and rules documents.
15. Only one on-premises sign can be installed on this property. Said sign must be located at the RV campground approach road entrance on Emerald Island Circle and it must fully comply with the Hubbard County Sign Ordinance.

Andres said I do have a question on that. Under the Shoreland Management Ordinance I believe that he may have up to two, judging by the size of his lots.

Buitenwerf answered I would have to do the assessment.

Andres continued the only reason I have concerns about that is if they happen to have some type of RV drive down the Enchanted Drive, I think that a sign would be appropriate so that they don't have traffic trying to go too far.

Johnson added I agree with Andres.

Andres explained I just think that we shouldn't limit him to one. I think he can have up to two.

Petersen asked Buitenwerf you are not sure if that would be allowable?

Buitenwerf responded I can do the check quick.

Petersen said I think we should probably know that.

Grob clarified Andres you think that another sign would be for what?

Andres replied just for clarification purposes for any RV attendees, for any customers, so they don't go too far on either side of the drive since we have had a lot of concerns about the drive.

Grob continued so they don't go down Emerald Island Circle. The County could put a road sign there that says no RVs beyond this point?

Christenson answered I believe that is a Township road, not a County road.

Grob said you are just saying to allow him to have another sign out there.

Discussion ensued about changing the condition.

Christenson asked Andres where do you think the second sign should be placed?

Andres stated I would assume Mr. Bolton was going to put one on each drive entrance area on premises. It is within the Shoreland Management Ordinance regulations.

Buitenwerf replied that two signs would be allowed by the Ordinance.

Petersen asked Buitenwerf to amend the condition from one to two and to add Enchanted Drive to the condition.

16. Only the four security lights listed in the application (three along the north RV sites access road servicing RV sites 5-14 and one on the south end of the access road servicing RV sites 1-4) are allowed on the property. The lighting shall utilize down lighting designs that minimize light pollution.
17. A 6' high privacy fence that runs from the northwest corner of the property to the east edge of RV site 11 shall be installed and maintained in good repair on the north property line.
18. A permanent vegetative buffer must be planted and maintained in the area between proposed RV sites 5-11 and the north property line after the grading plan work is completed. This buffer must consist of a variety of tree and shrub species per a revegetation plan prepared by a licensed landscape architect.

Discussion ensued about removing a portion of condition 18.

Andres said I do believe we should have some type of condition stated that we need to utilize the post-construction revegetation plan that he has submitted.

Condition 18 now reads: A permanent vegetative buffer must be planted and maintained in the area between proposed RV sites 5-11 and the north property line after the grading plan work is completed per the SWPPP.

Andres added on the permanent vegetative buffer that we talked about on the north side. I know that he is installing the fence for the privacy aspect. During the lot viewals as well, the north neighboring properties have adequate trees and shrubs in leaf-on conditions. Are we going to adhere to the vegetative buffer between 5-11 to the north part; or is that going to be grass as it shows in the plan?

Grob clarified the SWPPP plan only has grass there, right?

Andres replied correct.

Petersen clarified are we good with that language?

Andres answered yes.

19. No generators can be operated on the property except during a power outage.
20. No beaching of watercraft or mooring of watercraft is allowed in the area specified in the MN Dept. of Natural Resources' submitted plan.

Andres added I think we need to address the no accessory structures are allowed beyond those existing at the time of permit. We need to think ahead about the RV sites. In order for this thing to grow, campers are going to want a storage unit or a deck. Currently leaving it open and not having any accessory structures, you will have to come every time to us to get that. Otherwise he will be able to go to Environmental Services to get a permit.

Grob clarified you are addressing if someone puts an RV there with the intent of permanently leaving it there; they are going to want a deck.

Andres replied they are going to want a deck or they may even want a small accessory structure to put seasonal items in.

Kovacovich asked I need a clarification on this no accessory structure allowed beyond time of issuing the permit. What about his bathhouse? Is that not an accessory structure, just to make sure we are not putting something in this that restricts him from doing what he has put into the plan?

Andres clarified this is going to be after the completion of his project. But now in retrospect I think that would be a little bit restrictive.

Johnson agreed. If he is going to be successful, he is going to have to accommodate customers.

Discussion ensued about wording condition 21.

Christenson asked Buitenwerf in the interest of the audience, going with what Andres is suggesting, would you explain to myself and the audience what kind of parameters are put around adding a deck or an accessory storage unit. Give us ideas on the size that you would allow.

Buitenwerf replied if there is no condition, then it would be a matter of the property owner coming in for a permit to place those items. We would be able to continue to permit them regardless of size until they reached the 25% impervious threshold. Typical size of an accessory structure that has been used in other similar CUPs would be 8' x 12' for a footprint.

(Unidentified) asked when you did the impervious surface calculation within Tier 2; did you not already consider the 2,400 sq. ft. as impervious?

Buitenwerf clarified no, only the 15' x 45' gravel or concrete pad.

Additional discussion ensued about condition 21.

Grob asked if we left it just as it is, if someone contracted with Mr. Bolton for a permanent RV to be there and they wanted to add a deck, under the current situation, they would have to come in and get a permit from you?

Bolton replied you would have to change the CUP.

Buitenwerf explained we would interpret the wording as currently written to apply to things like a storage structure like a shed. It would not apply to a deck or a platform.

Grob clarified they could come in and apply for a deck or platform but they couldn't put a small shed or something there?

Buitenwerf answered as written currently that is correct. Also the bathhouse would not be allowed as written.

Kovacovich asked what about no accessory structures are allowed beyond those existing at this time and that are included in the CUP application. Does that cover our concern? They could get decks, but they wouldn't be able to do storage sheds?

Grob stated I think that would make sense. If people are going to start building storage sheds, I think Environmental Services should know about it.

Bolton added the thing I am going for is a neat and orderly, high end RV park. For the people who have the seasonal games, they might have the corn hole game, where are they going to put that when they are not using it? Having a size restriction of the shed might be fine, but what if they have a bicycle and they don't want that stolen sitting out.

Grob asked what do other campgrounds do?

Bolton said they are allowed as long as the impervious surface isn't over and we aren't even near 25%. In Henrietta Township you have to get a permit for it and before you are given that they took a look at what change it makes to the impervious surface. It regulates itself if you were to scrub that #21 all together.

Jeremy Klinger asked is that what all other RV sites are doing in Hubbard County? Would this be something that is unique to his situation if we were to do this?

Grob stated we can't look back, we have to look forward.

Kovacovich said I jotted this down and let's see if this makes sense to everyone, "No accessory structures beyond those identified in the CUP application and existing at the time the CUP permit is issued are allowed. Each RV site may be allowed one storage unit not to exceed whatever size limit is typical."

Bolton said just something so that they can put their stuff away and lock it if they have a grill or bicycle.

Grob suggested 4' x 6'. We limit accessory structures by the lake to 48 sq. ft. That is awful big for this.

Andres added if we leave this on here he would not be allowed that either. In Section 601 for accessory uses and structures, he is allowed at a 20' ordinary high water setback, a 6' x 8' x 10'.

Grob said that is fairly large. That is assuming a lot of beach and water related toys.

Andres explained by leaving this on here, we are not even allowing him that.

Kovacovich clarified that is why I asking to substitute.

Grob continued he is looking for a size and I am saying it should be something substantially smaller than what we currently allow as a lake structure. I was suggesting 6' x 4' so you can put your odds and ends things there.

Kovacovich read the wording for condition #21.

Discussion ensued about the size limitations of the storage structures to be allowed.

21. No accessory structures beyond those identified in the CUP application and existing at the time the CUP permit is issued will be allowed except each RV site may be allowed one storage unit not to exceed 6' W x 8' L x 10' H.

Petersen asked Buitenwerf you have amended it?

Buitenwerf replied I need to know for sure that is what you want to do.

Petersen said I think that is what we are going to do, what you are seeing there.

Discussion ensued about permit requirements for the storage structures.

Petersen asked if the Commission was ok with the revision of condition #21.

Grob added I think that 10' high is excessive. I don't think they need 10' high.

Bolton commented if you are going to hang your bike from the ceiling.

Grob said how long is a bike, 5 feet?

Bolton added it depends, bikes are getting bigger.

Grob stated I ride bikes all the time and hang them in my garage.

Bolton clarified this doesn't limit a seasonal that chooses to put on a deck. That would be allowed by permitting it?

Petersen asked the Board if they were all good with the size.

Andres stated my concern is still the one that he is allowed at the 20' setback.

Petersen asked would we need to add that, is that your thought process?

Andres agreed.

Petersen asked would you be willing to give us a shot at language?

Andres suggested one accessory structure per Section 601 at the 20' ordinary high water mark setback.

Grob clarified within 20' of the lake you are going to allow him to build a structure like this?

Andres explained he is allowed that by Shoreland Management Ordinance currently.

Grob said that is for residential properties.

Andres asked Buitenwerf is that only pertaining to residential properties or does that cover all properties?

Buitenwerf answered Section 601.3 would specify that the water-oriented accessory structure is allowed for a residential lot.

Andres said so that needs to be scratched since it is not residential anymore.

Petersen said so we are good right there.

Petersen read condition #22.

22. No discharge of firearms is allowed on the property during the April 1 – October 31 annual operating window listed in Condition 6.

Christenson added if you go back up to the road signage, I do not believe that is worded according to what the Board wished. On number 15 there are two signs, but I believe it was Andres's intent to have Enchanted Drive also listed?

Andres agreed one sign on each road.

Kovacovich added if you would just put one on each entrance.

Grob said maybe this is over thinking the issue, but the implication is instructions when people come into the site, I think that Mr. Bolton has been very clear that Emerald Island Circle is the road that they are supposed to be using.

Bolton added primarily that would be the case, but someone pointed out the scenario if there was a tornado and there is a tree fallen on one, then we would have another option.

Grob stated these signs I presume are ones that say entrance to Bolton RV site.

Bolton replied everything will be advertised to Emerald Island Circle.

Grob continued you should put an advertising entrance sign on the other one. I am not against two signs, but this would imply that we are encouraging RVs to come in Enchanted Drive.

Bolton replied they just won't do that I don't think.

Kovacovich added my intent on this would be that there is a sign on each road. The one that you don't want people to use you would still need a sign at that entrance saying this is it so that they don't continue down to a spot where there is no turn around. Inadvertently someone is going to come there and a sign identifying the entrance is needed.

Petersen asked are we looking to add any other conditions to this list?

Jeremy Klinger said my concern is with condition #6. The quiet hours where customers should not generate noise that disrupts the surrounding property owners shall run from 10:00 p.m. to 7 a.m. daily, I am concerned with that because of enforceability. I don't necessarily think that is enforceable from a legal perspective. My concern is also litigation, given the contentiousness of this issue, who is going to define what is quiet and what amount of noise is generated to essentially violate this condition. My concern is that this condition will lead to significant litigation that will lead us back into court again with concerned land owners.

Petersen asked isn't the enforcement incumbent on Mr. Bolton, if he is our onsite manager, aren't we relying on him to enforce this. I am not sure what you are referring to as far as contentious. I am not that familiar with campgrounds, but I would assume that there is a quiet time that is associated with most campgrounds. Again, I don't have an issue with it, but the manager, if he's onsite here, isn't that what he is supposed to be doing rather than Sheriff's or Environmental Services at least initially.

Klinger continued if that is the understanding of the condition is, my concern is that there would be constant investigations into this condition, but if we are concerned that he is the camp manager and he is the one that is responsible for enforcing that condition, you are just delegating to him to keep it quiet, I guess I am ok with that.

Grob asked isn't it pretty standard that campgrounds about that time pretty much shut down noise?

Klinger clarified my concern was who was going to trigger that condition, but if we are delegating that to him, I am fine with that. My concern was whether that was going to get a third party to come in here and start an investigation. I understand what you are saying and I am fine with it being delegated to him.

Kovacovich explained standard rules in virtually every campground that I worked at, I have many years DNR campground experience, I would suggest rather than disrupting surrounding property owners, I would say disrupt others. It doesn't matter who it is, if it is a property owner or an adjacent RV site or an RV six units down, the disruption is a disruption and it doesn't matter who it is disrupting. It is up to the campground manager to take care of it.

Klinger stated that would address my concern a lot because I was concerned that was leading to a cause of action on the part of the neighboring land owners to possibly give him a private cause of action involved in this. That was more of my concern than the general rule itself.

Kovacovich added it does not exclude the neighbors from objecting to noise, but it puts it in such a way that it is anyone inside the RV park or outside could lodge that complaint.

Grob asked how would we change it then?

Johnson asked if you had half a dozen people around a campfire talking after 10:00 and directly next door they can hear it, that would violate the quiet hours?

Kovacovich replied it could, depending on who does the talking.

Grob stated it is more likely to disrupt other campers.

Kovacovich said I would like the wording changed to “that disrupts other people” rather than “surrounding property owners”. That way it does not exclude property owners, but it also includes other onsite guests. What we are doing here is putting a rule in play for Mr. Bolton and it doesn’t matter who is lodging the complaint, it is just stating that we have quiet hours from that 10:00 p.m. to 7:00 a.m.

Petersen stated one of the other conditions that the Board has talked about and I am going to need a consensus here, was the requirement of a performance bond, I am not sure if we have come to a decision on that. From my own perspective, I guess I would probably leave that to the Commissioners simply because I don’t feel that I can devise a performance bond, I am not that familiar with them, that would meet the requirements that we are looking for here. My inclination is to not include that condition.

Grob added my only thought is that I saw two legal opinions that were 180 degrees opposite. We are not going to settle that here tonight without a good working session to come to some kind of proper definition of costs and what would be done if it had to be implemented. My thoughts are that whatever recommendation we make to the County Commissioners, whether it is denial or approval, we attach to it the fact that if the Commissioners feel that a performance bond is required, they should seek appropriate legal help in developing that.

Andres said I agree with Grob.

Johnson stated I agree.

Kovacovich added I also agree.

Christenson stated I am fine with it.

Petersen said we are going to leave it off of the condition.

Christenson mentioned you didn’t fill in any numbers. Did you decide if you are going to recommend passage or not?

Grob replied we have to go through the findings of fact. It is potential that those findings of fact could lead to alternate suggestions. If they don’t then we will come back and fill in what currently exists.

Discussion ensued about the privacy fence along the north property line being a condition.

Buitenwerf stated as a reminder for the Commission, when you are entertaining what to do with this application, unless you make it a specific condition, it is not a requirement.

Grob asked even though it is on the plot?

Andres said it is actually on there, #17; we just need to add on there that it needs to be in place before the operating permit. During lot viewals, I did make special note to the north property and established where the property line was. Even though vegetation is going to be removed on Mr. Bolton's side, there is still plenty of vegetation on the north property owner's with leaf-on conditions. There was adequate coverage.

Petersen asked are there any more conditions?

Petersen added I would like to remind the audience that this motion is simply a recommendation to the County Commissioners for approval or denial. What they do with it is their choice.

Grob asked Buitenwerf when we go through the findings of fact, we must find all of them positive in order to make a recommendation? If any of them come up as a no, we have to make a recommendation for denial.

Grob made a motion to recommend denial to the County Commissioners for this application.

Motion failed due to no second.

Petersen made a motion to recommend approval of Conditional Use Permit Application 4-CU-19 to the Hubbard County Board of Commissioners for this application along with 22 conditions to the approval. Petersen supplied the number of 14 sites for condition #5 and 8 for the number of dock slips in condition #13.

Andres seconded the motion which passed by a vote of 3-2 with Kovacovich and Grob voting nay.

The Commission provided answers to questions 1-8 and also question 12 along with adopting the staff report answers for questions 9-11.

### **Findings of Fact**

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

YES ( X ) NO ( )

Why or why not? The proposed use complies with the dwelling unit density allowed by the ordinance and while allowed up to 8 Tier 1 rental units, has these units moved further away from the lake into Tier 2 and as far toward the north end of the lot which is as far away from the lake as it is physically possible to locate the units on the lot. There is 48 ac. of undeveloped land to the west and southwest of this property. There are two residential lots adjoining the subject property's north boundary line and public roads abutting its west and east lot lines. Four residential lots are on the other side of the public road that runs along the property's east side. The property is ½ mile from the City of Park Rapids limits and a bit more than one-quarter mile south of State Highway 34 and a commercial use corridor that runs

along the highway in this area. There is room to locate the needed septic systems and well for the campground and the property fronts two township roads that lead to a paved County road that is 300' from the property.

Johnson, Andres, Kovacovich, and Petersen voted yes to the answer for question #1 of the findings of fact.

Grob voted no to the answer for question #1 of the findings of fact.

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

YES ( X ) NO ( )

Why or why not? The Ordinance allows up to 8 of the proposed 14 RV sites to be located in Tier 1, but the applicant is proposing to locate these 8 units in Tier 2 instead. All RV sites will be at least 267' from the lake. The property is covered in deciduous and coniferous tree cover between the project area and lake and the existing driveway to the house runs along the contour at a higher elevation than the up-gradient area such that it serves as a built-in stormwater catchment berm.

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

YES ( X ) NO ( )

Why or why not? The existing driveway to the existing house runs along the contour below the proposed campground sites and is slightly higher than the adjacent up gradient land such that it serves as an effective berm to catch any stormwater that might make it to that point.

Johnson, Andres, Kovacovich, and Petersen voted yes to the answer for question #3 of the findings of fact.

Grob voted no to the answer for question #3 of the findings of fact.

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? Hubbard County does not have any FEMA designated floodplains. The property has 50' of elevation rise over its ~630' of lot depth with the proposed RV sites being at the upper point on the property. Thus, potential flooding of the proposed campground area is not a concern.

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 ( X ) NO ( )

Why or why not? The proposed RV sites and access roads will be located in the north portion of the lot which is 300-600' from the shoreline of the lake. The existing driveway to the existing house on the property is built up above the surrounding land and lies along the contour which will allow it to catch any stormwater runoff that may come from the campground area and intercept it before it could go further toward the lake.

6. Is the site in harmony with existing and proposed access roads?

YES ( X ) NO ( )

Why or why not? Emerald Island Circle runs along the west side of the property and Enchanted Drive runs along the property's east side. County 107, a paved two-lane road, is ~300' from the north boundary of the lot. County 107 then ties into State Highway 34 at two points which is a main travel corridor running east-west. County 107 also ties into County 4 and 169<sup>th</sup> Avenue roughly ½ mile west of Emerald Island Circle and provides good north-south access.

7. Is the requested use compatible with adjacent land uses?

YES ( X ) NO ( )

Why or why not? The Shoreland Management Ordinance allows an RV campground use as a conditional use. The property to the west and southwest of this lot (~48 ac.) is undeveloped natural land. The lot is bordered on the south by the lake. The property is mid-sized between the smaller residential lots to the north and east and the large tracts of land across Emerald Island Circle to the west. The proposed use complies with the dwelling unit density allowed for the property's size along with all other applicable ordinance regulations. The RV campsites will be located in the second tier and thus not visible to parties recreating on the lake.

8. Does the requested use have a reasonable need to be in a shoreland location?

YES ( X ) NO ( )

Why or why not? The Shoreland Management Ordinance allows the proposed recreational vehicle camping area/campground use on a recreational development classified lake like Long Lake as a conditional use.

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? The existing SSTS servicing the existing house on the property is compliant and sized for a three bedroom home with a 450 gallons per day (gpd) design flow. Three SSTS designs are on file with the Env. Services Department for installing three septic systems to service the proposed campsites. These three

systems have design flows of 400, 880, and 300 gpd. These three systems are well below the 2500 gpd threshold trigger in the State SSTS Rules that requires a higher level of design standards and licensure in order to be constructed and designed. The soils on the property are sandy in nature and suitable for treating the waste that the RVs and bath house will generate.

10. Will the visibility of structures and other facilities as viewed from public waters comply with Section 901 of the Ordinance?

YES ( X ) NO ( )

Why or why not? The RV sites will be at least 250' from the lake and at least 25' in elevation above the lake. There is extensive mature hardwood tree cover on the lot between the sites and lake such that they will not be visible to anyone on the lake. The existing house and outbuildings are ~145' from the lake and also screened from it by good mature hardwood tree cover such that they are not visible from the lake.

11. Is the site adequate for water supply and on-site sewage treatment systems?

YES ( X ) NO ( )

Why or why not? There is an existing well servicing the house on the property. A new well is proposed to be drilled in the NW corner of the property to service the RV sites. The existing septic system servicing the existing house on the property is compliant. Three new septic system designs from a licensed designer were submitted showing locations where they can be located to service the proposed RV sites and where alternate drainfield sites are reserved. Additional suitable areas where drainfields could be located also exist on the property.

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 ( )

Why or why not? Long Lake is ~6 miles long and has an average width of ½ mile. It is 1,926.11 ac. in size. The property fronts a shallow ~17 ac. bay that sits off to the side of the north end of the main body of the lake which is oriented north-south.

Johnson, Anders, and Petersen voted yes to the answer for question #12 of the findings of fact.

Grob and Kovacovich voted no to the answer for question #12 of the findings of fact.

**Planning Commission Recommended Conditions re:  
Conditional Use Application 4-CU-19**

1. This conditional use permit (CUP) is for the operation of the entire premises as one

recreational vehicle campground 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. Fifty percent of the shore impact zone (SIZ) on the property must be preserved in its natural state per Section 1013.4.H of the Shoreland Management Ordinance. This preserved area will consist of the west half of SIZ on the property measured from its west boundary line shared with parcel 13.29.02000 and running 101.5' northeasterly toward the eastern side lot line of parcel 13.42.05000 as depicted on attached Exhibit A. This area cannot be mown or otherwise manipulated. It must be allowed to remain in natural vegetation and self-manage.

3. Environmental Services will monitor the corrected shore impact zone vegetative alteration violations for a five year period of time to ensure the violations are not repeated.

4. The use shall only operate from April 1 to October 31 of each calendar year.

5. A maximum of 14 recreational vehicle sites are allowed to be located on this property in the locations shown on the application grading plan (sheet 1 of 4) attached as Exhibit B. Seasonal customer RVs may be left onsite outside of the April 1 to October 31 operating window.

6. Quiet hours where customers shall not generate noise that disrupts others shall run from 10:00 p.m. to 7:00 a.m. daily during the April 1 to October 31 campground operating window.

7. The use shall have a full-time onsite manager or employee present on the property or available by common means of communication who is able to be onsite to respond to an incident, need, or complaint within four hours of being contacted about such during the April 1 to October 31 operating window.

8. The existing residential house on the property shall only be used as an owner's/manager's residence. It shall not be used as a rental unit. Only one such non-rental dwelling shall be allowed on the property.

9. The access roads to the RV campsites and their approach locations onto Emerald Island Circle and Enchanted Drive shall only be located as depicted on the application grading plan. The existing driveway providing access to the existing residential structure may remain. No other access roads or approaches onto these two township roads are allowed. The access roads to the RV sites shall be no wider than 25' with a maximum 9' wide graveled surface centered therein. The remaining 16' of the roadway width (8' wide on either side of the 9' wide graveled surface) shall be kept in a dense, permanent grass cover vegetated state.

10. All RV site surfaces other than the 15' x 45' concrete or gravel RV parking pads shall be kept in permanent dense vegetated cover.
11. All RV sites shall be provided with electrical service and water and sewer hook-ups.
12. The three septic systems proposed to service the RV sites must be installed and issued certificates of compliance before this conditional use permit's operating permit shall be issued.
13. The use shall have only one dock with 8 permanent watercraft mooring slips and said dock shall be installed exactly according to the dock layout and dimensions plan shown on attached Exhibit C.
14. The applicant will provide verbal and written notification to all customers of this RV campground that there is a no-wake zone requirement throughout the bay of Long Lake that this property abuts. Signage stating this no-wake zone requirement must be placed at the landward end of the dock authorized by condition 13. Written notice of this requirement must also be placed in the RV campground customer contract and rules documents. Channel buoys shall be placed annually establishing a 15' maximum width channel.
15. Only two on-premises signs can be installed on this property - one along Emerald Island Circle and one along Enchanted Drive. Said signs must fully comply with the Hubbard County Sign Ordinance.
16. Only the four security lights listed in the application (three along the north RV sites access road servicing RV sites 5-14 and one on the south end of the access road servicing RV sites 1-4) are allowed on the property. The lighting shall utilize down lighting designs that minimize light pollution.
17. A 6' high privacy fence that runs from the northwest corner of the property to the east edge of RV site 11 shall be installed before the operating permit will be issued and maintained in good repair on the north property line.
18. A permanent vegetative buffer must be planted and maintained in the area between proposed RV sites 5-11 and the north property line after the grading plan work is completed per the SWPPP.
19. No generators can be operated on the property except during a power outage.
20. No beaching of watercraft or mooring of watercraft is allowed in the area specified in the MN Dept. of Natural Resources' submitted plan.
21. No accessory structures beyond those identified in the CUP application and existing at the time the CUP permit is issued will be allowed except each RV site may be allowed one storage unit not to exceed 6' W x 8' L x 10' H.

22. No discharge of firearms is allowed on the property during the April 1 – October 31 annual operating window listed in Condition 6.

**New Business:** None.

**Board of Adjustment:**

**Approval of Minutes:** May 20, 2019

Kovacovich made a motion to approve the minutes as presented.

Andres seconded the motion that carried unanimously 5-0.

**Old Business:** None.

**New Business:**

**Variance Application 11-V-19 by Vincent and Raymond Schultz:** Part of Government Lot 8, Section 31, Township 143, Range 32, Lakeport Township on Kabekona Lake, a recreational development lake. Parcel 19.31.01800. Applicants are requesting a variance from Section 502.2 of the Shoreland Management Ordinance for an accessory structure to be located within the 50' road right-of-way setback.

Vincent and Raymond Schultz, 27814 County Road 37, Laporte, MN, said we are requesting a variance from Section 502.2 of the Shoreland Management Ordinance for an accessory structure to be located within 50' of the right-of-way. We are proposing a 32' x 24' garage within 21' of the road right-of-way. This will allow us to position the building in front of the existing driveway and away from the existing septic tank and drainfield.

Grob asked 37 is a County road, right? On the drawing it shows the right-of-way as being 42' to the center line. I thought 33' was a standard right-of-way.

Schultz answered Buitenwerf corrected us on that. It changed about five years ago when they redid County Road 37.

Grob clarified that is unique to 37 then that it is at 42'.

Petersen opened for public comment.

No public comment was given.

Petersen closed public comment.

Andres asked what are you proposing in the second story of your accessory structure?

Schultz answered storage and possibly a work shop.

Andres stated it shows in your application that you are going to have a bathroom, is that a full bath?

Schultz replied  $\frac{3}{4}$  bath. It just really makes a second bathroom for the place. We really only have one right now.

Andres asked are you planning on having living quarters upstairs?

Schultz answered not at this time.

Johnson asked how many people do you end up having on a holiday there?

Schultz replied this 4<sup>th</sup> of July we will have five.

Johnson added so parking won't be an issue for you, pushing vehicles back into the right-of-way?

Schultz said no.

Petersen added Andres has asked you about the size of the building and the bathroom in there and whether you intend to have living quarters in there. If you did, you would be exceeding the guest cottage allowed square footage of 700 sq. ft. I know myself and maybe a couple others are thinking about what we can do to keep you compliant in that regard.

Grob asked is the bathroom on the first floor?

Schultz stated the garage goes right over the sewer line. The sewer line is only a foot deep so I thought it would be nice to put it in. What is the square footage for a guest cabin?

Petersen said you would have 768 sq. ft. and 700 sq. ft. is the allowed for a guest cabin. Buitenwerf, remind me again on a situation like that, if they were to put living quarters up there on top. Would the whole building be figured as guest area or just that floor if they did no finishing downstairs?

Grob added it is the footprint.

Buitenwerf answered that would be a violation of the Ordinance because the lot does not meet the minimum lot size requirements to be able to have a guest cottage.

Petersen asked if we chose to would we be able to put a condition on this variance to prohibit turning that into living quarters.

Buitenwerf replied that would be redundant to what the Ordinance would already state, which is that isn't allowable.

Grob added I think for the record we should make a statement that they understand very clearly that this cannot be used for living quarters and could not be converted to a guest cabin.

Petersen stated just for the record we want to let you know and make sure that you understand, not only would that building exceed what is allowable, but per Buitenwerf you don't have the required space on that property to do it.

Schultz clarified to do any guest cottage.

Petersen asked you understand that?

Schultz verified I understand that.

Kovacovich made a motion to approve the variance as presented and adopt the staff report findings of fact.

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? County 37 has a 30 mph speed limit. The 50' ROW setback assumes most county roads are traveled at a 55 mph speed limit. The proposed 21' ROW setback exceeds the 20' township road ROW setback which seems better suited to this road because of its speed limit.

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

Yes ( X ) No ( )

Why or why not? Having a detached garage on a residential property is reasonable and the 24' x 32' footprint proposed for the garage is also reasonable. The steep slope or bluff on the lot right in front of the house does not provide space on the lot where a garage could be placed and meet the 50' ROW setback so some degree of relief from the setback is required.

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? There is a steep slope or bluff between the house and lake that does not allow the garage to go much further to the north. Even if the garage was moved a bit further north, it would still not be able to meet the 50' ROW setback. Because of the slope in front of the house and the existing house location and floorplan, there is only ~75' of usable depth on the lot.

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

Yes ( X ) No ( )

Why or why not? The locality is made up of a mixture of seasonal and year-round single family dwellings along with a resort ~600' east of this property. To the south

of this property on the other side of County 37 exists a commercial use property and a multi-unit residential use. This lot is similar in size at a bit over half an acre to the adjacent lot to the west and four lots to the east between it and the resort. The adjacent lot to the east is nearly twice as large as this lot and the properties on the south side of the road range from 3.5 to 51 acres in size. Many of the surrounding properties have detached garages and accessory storage structures on them. The lot two doors down to the west received an 18' ROW setback variance in Dec. 2015 for a 40' x 96' pole building so a similar setback variance for an accessory structure has been recently granted in this 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 12-V-19 by Peter and Kathryn Lahr:** Lot 5, Block 6, Island Lake Shores, Section 3, Township 139, Range 33, Crow Wing Township on 4<sup>th</sup> Crow Wing Lake, a natural environment lake. Parcel 06.58.02100. Applicants are requesting a variance from Section 506 of the Shoreland Management Ordinance for a proposed guest cottage that does not comply with the 700 sq. ft. maximum allowed footprint or 15 ft. maximum allowed height.

Peter and Kathryn Lahr, 25320 Chokecherry Lane, Nevis, MN, stated we are requesting a variance from Section 506 of the Shoreland Management Ordinance for a proposed guest cottage that does not comply with the 700 sq. ft maximum allowed footprint or the 15 ft. maximum allowed height. We would like to actually build a home on that property.

Grob stated I think I understand the situation now.

Petersen opened for public comment.

No public comment was given.

Petersen closed public comment.

Johnson stated we should talk about findings of fact question #3.

Grob added my thoughts on that is that it lends towards a no, but the uniqueness are small lots, bluffs, and other topography constraints. In this case it is just the opposite. It is a unique lot because of its size and they could easily divide it into two. The constraints are things that are driven by the existing lot that was created by someone else. I would offer the thought that I would change it to a yes and say that the situation is somewhat unique and that it is a very large lot that could be subdivided. The situation is created by the lot being originally platted the way it is.

Petersen reminded we would need the motion before we take that answer.

Johnson stated from your stakes you were encroaching on your septic, I would like to make sure you spin that so that you meet the setback. Also, the proposed site is the best location which is unique to the property also.

Petersen asked do we want to make that a condition?

Grob asked maybe I modify my motion to add a condition that no additional living structures besides the new planned home can be built on the property in the future.

Lahr replied we do not plan on building anything else.

Grob added the implication is that the lot can't be split to do that.

Grob asked do we have to restate the condition?

Buitenwerf replied in this case I made note that you stated it just prior to the motion so I think that would be easy enough for staff.

Grob clarified they can't split the lot and no additional structures.

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

1. No additional structures with living quarters can be built on the lot.
2. The lot cannot be subdivided.

Johnson seconded the motion that passed 5-0.

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

### **Findings of Fact**

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

Yes ( X ) No ( )

Why or why not? A condition is being placed on the variance that prohibits the lot from being subdivided – which ensures the intent of the ordinance's dwelling unit density standards will be met. The lot is 17.4 ac. in size. The existing structure is almost outside of the 1000' shoreland jurisdictional area of 4<sup>th</sup> Crow Wing Lake and is outside of the South Island Lake jurisdictional area. The building sites are not visible from either lake nor from the nearest road that is over 900' away. The lot could be divided into at least two lots and then the two structures could be allowed by permit – one on each lot. Thus, rather than require this technicality hoop to be jumped through, it makes sense to allow a variance.

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 17.4 ac. lot is large enough that it could be subdivided into at least two lots on which could then each be placed a residence that would not be restricted in its dimensions. A condition is being placed on the variance that prohibits the lot from being subdivided as a means of ensuring the ordinance's dwelling unit density standards' intent is met. The existing and proposed structures are beyond the South Island Lake jurisdictional area and almost outside of the 4<sup>th</sup> Crow Wing Lake jurisdictional area. The structures will not be visible from either lake nor from the nearest road that is over 900' away.

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 situation is somewhat unique, it is a very large lot that could be subdivided. The situation was created by the lot being originally platted the way it was.

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

Yes ( X ) No ( )

Why or why not? This lot is one of a half dozen large acreage lots (i.e. 12-20 ac.) that are oriented east-west and occupy much of the land between 4<sup>th</sup> Crow Wing Lake and South Island Lake. The adjacent lot to the north is a seasonal residential use that does not have a residence on it. The adjacent lot to the south has a seasonal residence on it located due south of the existing residence on the subject lot. The existing residence and proposed new residence are not visible from the nearest road which is ~950' away nor from either lake as the building site is over 900' from either lake.

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

Yes ( X ) No ( )

Why or why not? Economics are not stated as the sole difficulty in the application.

**Variance Application 14-V-19 by Jon and Tina Boughner:** Part of the NE ¼ of the SW ¼ and Government Lot 8, Section 36, Township 143, Range 32, Lakeport Township on Kabekona River, a Tributary. Parcel 19.36.00213. Applicants are requesting a variance from Section 502.7 of the Shoreland Management Ordinance for an after-the-fact request to place an accessory structure within the 50' road right-of-way setback.

Jon Boughner, 33007 State Highway 200, Laporte, MN, stated I am requesting a variance from Section 502.7 of the Shoreland Management Ordinance for a 10' road right-of-way setback instead of the required 50' road right-of-way setback in order to build a pole structure on our property.

Johnson added since Grob wasn't there, I would like to show on the map that is up and make the statement that the reason we are here is that the applicant submitted the wrong dimensions. This was given a permit. It is just a statement that we are here because of the applicant. The 100' should have been 200' because the property immediately to the east has a 200' right-of-way.

Grob stated I think I understand the violation is a side lot violation not a road setback one only because the neighbor has never vacated that 100' that he would be allowed to do.

Boughner added five years ago we went through that process and we purchased to bring it back to the 100' right-of-way from the State.

Petersen opened for public comment.

Gary Kennedy, 34146 331<sup>st</sup> Ave, Laporte, MN, adjoining property owner to the east. A little history quick on this, the property that I own has been in my family since 1950. When Mr. Boughner first requested to purchase the land, he requested to put a park model on that land and went through the variance process 5-6 years ago. That all lead up to his purchasing the State right-of-way so he could put a regular home on there. At that time we had no objections on the property when they went through that process. Where I am at right now is I know the County requests that the requesters do everything properly because they don't have the staff to go out and check everyone's construction. I am concerned about his due diligence when he requested this permit due to the fact that I did not purchase that reconveyance to that 200' so that is not doing property due diligence on checking on where the landowners are. I am also concerned because the one contractor he had out there to do his dirt work knew that I did not own that land because I had him come out and give me a bid on some other work. We walked that property just weeks prior to this work being done and the request. I am just talking about due diligence on that. I also am concerned about the measurements when he had his stakes out there. I have a couple laths out there that I have had surveyed with a point out there and I think it is about 50' different than what Mr. Boughner had on those stakes. I am concerned about the actual measurements which would be 150' from the state right-of-way and it depends on how you run it; if you run it with the property line or with the right-of-way with the highway which is perpendicular. A couple other things that have come up, if he builds this shed on there I am concerned about parking. That brings him closer to the right-of-way up towards the highway anyway. There have been numerous times that he has already had numerous cars there on weekends, six to eight cars and pickups with boat trailers and boats parked in there. By building this shed and he moves up further that limits his parking without either encroaching on my property or any of the state right-of-way. Something else that should be pointed out, the State has already informed me if I develop anything on the west end of my property, I have to use the existing access, which has been there forever and used as a driveway. If you put one in there that would limit parking and I wouldn't be able to get through if I use any of that west end. I know I mentioned some encroaching that I am concerned about because they have already pushed some debris on my property and then when they cut trees down for the proposed shed the contractor was running across my property already moving the trees. I am pretty concerned also for those that were out there, I know I brought it up once, is the ordinary high water mark, due to the fact that I paid the County to come out and mark my ordinary

high water mark. At that time the County came out and the DNR came out with them and they at that time marked the bottom of the ridge line next to the property line, for those that were out there I pointed that out. Mr. Boughner said that the trees were his ordinary high water mark that he had done years ago. According to those two different things, it is at least a 100' difference. On the site visit, I noticed some concern about the ordinary high water mark. He has talked about his concern about safety crossing the highway if he went to an alternate site. He currently crosses it numerous times with his RVs or ATVs. He has to get to his mail box. There is also power that he can pull access for. If it is a storage shed then you can, like his neighbor did, is use solar power on the north side of the highway. I am also concerned that the permit requested was a storage shed and he keeps talking that it is a shop. I have had different people mention that he might be possibly doing business out there in the future.

Discussion ensued about location of the project.

Johnson asked Buitenwerf could you measure that from the base of his existing dock out to the 150'?

Andres added during the lot viewal there appeared to be some discrepancies between your neighbors as to where that 150' ordinary high water setback it. Buitenwerf can you please turn on the wetland layers as well. I reviewed the National Wetland layers and utilized the measurement tool and found out the property of this proposed garage may be less than the 150' ordinary high water setback as well.

Boughner stated when we originally did this; it was laid out that the wooded vegetation was used as a guide.

Buitenwerf said from the conversation that occurred during the lot viewal that led to my visiting with Mr. Hoverson of the DNR in regard to this matter, I think he would be able to offer some helpful background as to how the ordinary high is determined on this part of the river.

Petersen stated I will entertain that, come on up Mr. Hoverson.

Darrin Hoverson, Minnesota Department of Natural Resources, Park Rapids, MN, stated I was recently at Mr. Kennedy's property in regards to an ordinary high and I recollect being on this property with Scott Navratil a number of years ago. I don't believe we found any notes associated, but I do understand why there may or may not have been a discrepancy associated with this property. This actually has a Tributary classification for Shoreland Ordinance, but these are unnamed basins. A Tributary or a river classification ordinary high is the edge of bank. It is not the flood plain; it is the edge of bank. One could say this is the edge of bank, but it is pretty clear in a couple of these cases, the water goes up to about that brush line. It was probably about the time that Mr. Boughner bought it that Scott and I were out there and I believe Dan Thul commented, he was an area hydrologist out of Bemidji, he had made this call on another property and he used the transition to the woody vegetation. When I spoke with Gary here last week, I said that was probably not the correct interpretation because this is an unnamed basin and not a river. To me that water line, and Gary can attest to it as well as you folks that were there, it was

wet right to the change in slope there. If you zoom in a little bit there is a transition line you can see pretty prominently here. It comes along here and tugs up a little bit more. I spoke to Northern Engineering last week about how they came up with the ordinary high for Mr. Kennedy's property and he said he took Kabekona Lake and he took Leech Lake and took it on that station. That is not a correct way to do it. Maybe on a river on occasion that will work within a short ratio. I haven't had an opportunity to speak to Mr. Kennedy about it as well, but the DNR does make the determination for the ordinary high. Local governments can take that information advice, that elevation, and resurvey that; but the DNR makes that determination. I normally do so with consultation of that local government when there is a professional judgment call. Now I almost have two professional judgment calls here on adjacent properties. There is some concern there and looking at Mr. Boughner's property, if it is way out here he would be in significant advantage by it. Mr. Kennedy would get far less than that. It shows up quite a bit closer to his shoreline yet, maybe another 10' or at the most 20', not the 50'-60'. There are some discrepancies here. There is an opportunity to ask our survey unit to go out and do an ordinary high evaluation at this location or we can come to some agreement on the property. Maybe we are fine with the two calls and I can make some adjustments on Mr. Kennedy's based on that vegetation transition. Again, these are professional judgment calls and I believe I did make a call on Mr. Kennedy's that was much closer than what Mr. Boughner's was.

Johnson added I do not think that this is the only time this will be addressed because it is going to be across the river, there is going to be a lot of development. I would want it more consistent.

Petersen clarified you would want it measured?

Hoverson added that is pretty consistent, if Buitenwerf asked the DNR to do an elevation ordinary high survey. It is a request for service that I do all the time on areas that have seen more development. We have that on most of our heavily developed lakes already. There are ones out there that are more marginal, this being one of them that would benefit from it. I think we will do it; the question is what do we do at this point?

Grob stated the concern is that he might be within the 150'.

Andres added plus the other variance request.

Grob said that is one issue, but what about the 10' setback? That is what the variance is for.

Buitenwerf stated for your benefit Grob, the ordinary high water mark issue arose during the lot viewal. That was not identified as a potential issue prior to the application being made.

Johnson asked even that elevation, according to this property, it would be right over the base of the bank where it is wet just like at Kennedy's.

Hoverson added that is my professional judgment call, I can't say what a survey crew would say. I haven't been on his property and truthfully I went out to see Kennedy's property, I was never out there to see this property.

Johnson asked would you trust the technician that you were with that you trained him well enough to designate Mr. Boughner's property.

Hoverson stated again, I do not want to make the local government make a call that is a requirement of the DNR and professional judgments. It is supposed to be our call and I do it with consultation with the local government. I do believe that is what happened at the time a number of years ago, but I don't have any documentation of it. I would not want to put that on Nick or Eric himself. The State delegated the ordinary high determination to the DNR. That would be an elevation or a professional judgment call onsite.

Boughner said I am trying to understand, we have had that mark established. I have built a home on that lot. How can we just decide that isn't correct anymore?

Johnson replied you have a direct adjacent neighbor that contested that and I don't think we are as worried about the existing; it is what we are looking at as the application tonight.

Hoverson added it is not uncommon that a property may become legally nonconforming in some manner if a determination is made prior that is not consistent with the way it should have been done. Ordinance amendments, in this case potentially an ordinary high, the structures have been built with permit and I don't have an issue with that.

Grob asked if there wasn't an ordinary high water mark issue, is the 10' setback one that is acceptable to us or could it be pushed back to 50'?

Kovacovich stated although the request is on the 10', what has come to light from the field visit and now the DNR speaking about the ordinary high water mark, I am not comfortable with this until we know what the ordinary high water mark is period. It doesn't matter what has been built and that is the way things go, but until we establish that I am not comfortable moving forward to allow this project to go forward unless we know it meets the ordinary high water setback.

Petersen said I agree.

Andres said I agree as well.

Buitenwerf added if the Board is considering tabling to ascertain that information, I think it would be appropriate to ask Mr. Hoverson if he feels that he would have sufficient time to make that determination prior to the next meeting.

Hoverson replied I intend to make a formal survey request into our unit. It wouldn't surprise me that I could get them out there within the next 30 days, but I can't guarantee that at this point. I believe I can come out with a determination and at least make a site visit prior to the next meeting, and make that professional judgment if need be at this point.

Buitenwerf stated the other option would be that we would get a little more time by extending our review period to the maximum 120 days or in light of the matter too, we could ask if Mr. Boughner would be willing to sign the indefinite time extension form that takes the 60 day rule off the table and that would allow us to hold this until the ordinary high water determination can be made and then the adjustments can be made to the application if needed. That would be another option.

Boughner stated I don't quite understand what you are going for, an indefinite rule that you wouldn't come to a decision then?

Buitenwerf explained the State has a Statue that says applications have to be acted on within 60 days of the date of submittal when they are deemed complete, or the County can extend its review to 120 days from the application date, but not beyond that point. We would have the option of tabling and revoking that extension ability and that would get us to 120 days. If for some reason the DNR is not able to complete that determination within the 120 days, or even if it gets close, that doesn't give you much time then to make any adjustments that you would want to your application in light of whatever their determination is. We would have to act before that 120 days lapses. As the applicant, you also have the alternative of making a signed statement which we have a template that you use in these cases that you can sign that says you waive your rights to that review occurring within that 60 day timeframe and grant the County as much time as is needed for its review to be completed. That would be the other option.

Boughner asked or what happens, the application expires and I have to go through the process again?

Buitenwerf stated if you sign the indefinite extension, then we wait until we have the necessary information and then you would have your hearing in front of the Board at some later meeting date. If we extend our review to 120 days, we have to act prior to that 120 days expiring. If we have the information with which to make the decision or if we don't, we still have to act on it based on the information we do have. In that case you run the risk of the application being denied because of lack of that information. Thirdly the Board could take action on it tonight without knowing the status of the ordinary high water mark. It seems to be the thought that they would be able to make the most informed decision if they had that ordinary high water mark.

Boughner asked do I need to make that decision now?

Buitenwerf answered we would need to know if you wanted to do that or the County would, since they are looking to table, we would then extend our review to the 120 day timeframe just to cover our bases.

Hoverson added I would make the commitment with an email from Buitenwerf to get the request in for a formal ordinary high water level survey as soon as possible. I can actually get it in tomorrow.

Buitenwerf stated I can show you that form Mr. Boughner.

Grob asked Buitenwerf the implication isn't that it is going to go out to 120 days; it just covers the fact if we can't do it in 60 days and then we miss the next meeting.

Buitenwerf added the applicant did sign the indefinite extension form so we therefore have as much time as needed for the DNR to complete its ordinary high water determination and then allow that information to be factored into a reconsideration of the application at a future date. With that you would then be able to make a motion to table with guidance for that information to be submitted.

Kovacovich made a motion to table the application to allow the DNR to make an ordinary high water mark determination.

Petersen seconded the motion that carried unanimously 5-0.

**Variance Application 15-V-19 by Hubbard Township:** Part of the NW ¼ of Section 20, Township 139, Range 34, Hubbard Township on Long Lake, a recreational development lake. Parcels 14.20.02041 and 14.20.02011. Applicant is requesting a variance to intensify a nonconforming use, alter vegetation in the shore impact zone, exceed permissible volumes of earthen material movement within the ordinary high water mark 100' setback, and increase the impervious surface area.

No applicant was present.

Kovacovich added I would like to see someone from the Township or the engineering firm here representing the project. From my review of it, I am in favor of what they are doing, but that doesn't answer the questions that other people may have.

Johnson stated I feel the same way.

Andres said I agree, it is not that I am not in favor, I just have questions.

Grob added a representative from the Township or the engineering firm should be here.

Petersen asked does that need to be part of the tabling?

Buitenwerf added first we should see if there is any public comment that would like to be made this evening and secondly I would recommend that direction be attached to the motion to table that a representative from the applicant be present at the next meeting.

Petersen opened public comment.

Sharon Natzel, 13623 County 20, Park Rapids, MN, stated I attended the Township meeting and this is a grant that is between Hubbard County and the Township. They might not realize that they have to be here because I believe it was the County that got the grant. They are working with the Township. I am definitely in favor of it; I went down and changed the kiosk a lot personally. It is used a lot and there is a lot of runoff. Fixing it would really help to make it a very attractive place for people.

Charles Schaapveld, 203 Park Ave, Park Rapids, MN, stated I have the property that is across Beach View Road from the boat access. The parking lot on the west side of the road would be adjoining our property. The impact of that, I don't know what it is going to be if people decide to park on our land too. The other thing is the beach, I believe it is Pat O'Brien's land, where people park there to go swimming when they take off they just hit the gas pedal. If they don't have curbs there and people are still parking on the new turf, they are just going to rip it up anyway and erosion is still going to take place. Another thing, when I retire I would like to move onto that property and I would like a driveway off of Beach View instead of off Highway 87, which would have to be on the north end of where the parking spots would be on Beach View Avenue. Other than that, I am in favor of having it cleaned up and looking better.

Petersen closed public comment.

Andres stated I had a couple things that I wanted to clarify from some representative was a construction date. There are not even dates that they are proposing.

Grob said so a motion to table it and that before we review it we need a representative from the Township, from the engineering firm, and from the County.

Andres made a motion to table the application until a representative from the Township or engineering firm can be present to answer questions.

Grob seconded the motion that carried unanimously 5-0.

**Variance Application 16-V-19 by Russell Pickett:** Lots 8 and 9, Pritchett's Retreat, Section 7, Township 142, Range 35, Clover Township on Little Mantrap Lake, a recreational development lake. Parcel 05.38.00700. Applicant is requesting a variance from Section 702 of the Shoreland Management Ordinance for a nonconforming structure to increase its ordinary high water mark setback nonconformity.

Todd Anderson, 19209 178<sup>th</sup> Street, Park Rapids, MN, an authorized agent for the owner, presented the application.

Anderson stated he wants to build a 10' x 16' shed that is nonconforming due to the circumstances on the lot. Right now he has an 11'8" x 21'6" boathouse that is 2' off the water's edge that he would like to tear down if he can build this new shed on the higher location. There is no place on this lot that does not require a variance to build anything.

Petersen opened for public comment.

No public comment was given.

Petersen closed public comment.

Andres said during the lot viewal, there were two other structures that were on the lot. What are you proposing to do with those two structures?

Anderson replied he is proposing to tear both of those out of there when he can put this up. The boathouse would go down and both of those other ones so he would just have this one new structure.

Grob added the issue here is the fact that he could do this by permit except that it gets closer to the ordinary high water mark.

Kovacovich said he could do this by permit if he just rebuilt the existing boathouse.

Kovacovich made a motion to approve the variance application with the condition that the existing boathouse and two other sheds on the property will be removed and adopted the staff report findings of fact.

Andres seconded the motion that passed 4-0.

Petersen announced his recusal in the vote due to relationship with the applicant's representative.

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

Yes ( X ) No ( )

Why or why not? The application proposes to reduce all three dimensions of the boathouse and move it 35' back from the ordinary high water mark instead of having it right on the shore.

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 current boathouse is in a state of disrepair. Reducing the structure height by 4.5' and its square footage from 252.6 to 160 sq. ft, and moving it 35' back from the OHW of the main part of the lake is very reasonable.

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

Yes ( X ) No ( )

Why or why not? The lot was platted prior to the Shoreland Management Ordinance. It is very small at ~100' of effective depth and 96' of width. A wetland backwater of the lake that lies below the ordinary high water mark wraps around the NW side of the lot that causes the structure's OHW setback to decrease from it as the OHW setback from the main lake increases as a result of the structure being moved back away from the shore.

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

Yes ( X ) No ( )

Why or why not? The neighborhood is comprised of a mixture of seasonal and year-round single family residential dwellings. This lot is at the north end of the plat. Behind the lot lies an 8.4 ac. undeveloped lot that is largely covered by the large backwater wetland complex that wraps around the subject lot. The proposed building site is 130' from the nearest structure on the lot to the west and 160' from the nearest structure on the lot to the east. The structure will become less obtrusive to the locality by being moved back off of the shoreline and into the mature deciduous tree cover in amongst which it will be sited.

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

Yes ( X ) No ( )

Why or why not? Economics are not stated as the sole difficulty in the application. The difficulty is due to the uniqueness of the lake wrapping around the NW portion of the lot into a backwater area.

**Variance Application 17-V-19 by the City of Akeley:** Lots 1-4, Block 3, Akeley Park Gardens, Section 28, Township 141, Range 32, Akeley Township on 11<sup>th</sup> Crow Wing Lake, a recreational development lake. Parcels 29.38.03000 and 29.39.08000. Applicant is requesting a variance from Section 701 of the Shoreland Management Ordinance to intensify a nonconforming use.

Chris Hyer, 21490 Coaley Bay Drive, Detroit Lakes, MN, land surveyor along with Kristi Kath, 19153 209<sup>th</sup> Avenue, Nevis, MN, City Clerk for Akeley, presented the application.

Hyer stated what the City is proposing is to add a total of six more units to the campsite. Three of which will be RV sites and three of which will be tent. Some of the RV sites will be listed as primitive as in having no hook-ups whatsoever and then others will have full hook-ups on the tent and the RV sites. Primitive sites are listed on the drawings with the designation of a P after the indication of whether it is an RV or tent site. During the staking of the proposed sites, and I am sure during the viewal process, I am sure you did notice that one of the tent sites was slid further away from the lake and this was due to when we were staking it and reviewing it with the City, it was determined that the proposed sites that we had on the initial plans would not work very well for the City or for tents, therefore we moved one of the sites back. I do have revised drawings if you would like to see them just to see the proximity with respect to tiers and side lot lines.

Buitenwerf said yes we would appreciate that for documentation.

Hyer presented documents to the Board.

Hyer stated on sheet 1 you would see on the left hand side of the paper, there is a large blue area indicating a gravel area. Just to the east of that is where the tent site was moved to. That falls just over the line into Tier 2.

Petersen opened for public comment.

Darrin Hoverson, MN Department of Natural Resources, stated consideration for mooring spaces associated with any additional watercraft or consolidation of those. I am fairly familiar with the City of Akeley, I believe you have dock frontage along the whole frontage. The DNR's intent on any type of project like this is to consolidate mooring so there is limited disturbance along the shoreline. I haven't looked at the application any further than that.

Kath added it is not our intention to have any additional mooring due to these sites being added.

Petersen closed public comment.

Grob stated you already have 40+ sites packed in pretty densely. What is driving six more?

Kath replied public need. We are full and overfull.

Grob commented just because you have a lot of demand?

Kath replied yes.

Andres asked did you know that you are currently 142% over density. Are you aware of that?

Kath responded not the specific number, but I knew that we were not conforming.

Andres added if we were to approve this it would put you approximately 173% over density.

Hyer stated on my table it indicated the allowed units in Tier 1 are 22 and currently there are 46 and proposed there would be 50.

Grob asked knowing that you still did the application. You were aware that you were that much over density before this discussion?

Kath replied yes.

Andres added during the lot viewal, at one of the sites, there was a fire hydrant there by one of the trees where the three RV sites are located. I believe you can even see it in one of the pictures. You can see it in one of the pictures you provided. Is that fire hydrant owned by the City of Akeley?

Hyer replied that would be one of the City's.

Andres asked do you know the City code to parking by the fire hydrant?

Hyer said you can't park right in front of a fire hydrant.

Grob added 15' I think.

Andres continued I believe one of these units is right in front of it. I am not sure that is 15' away. I am not 100% sure, that is why I am asking.

Hyer answered I do not have a specific dimension in front of me to be able to answer that question.

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

Petersen seconded the motion that passed 5-0.

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

Yes ( ) No ( X )

Why or why not? The property currently exceeds the allowed dwelling unit density by 142%. Nineteen RV/tent sites are allowed in Tier 1. Forty-six such sites currently exist in Tier 1. Six additional RV/tent sites are proposed to be added to Tier 1 which would make the property 173% over density. No mitigating measures are proposed in the application to offset the additional proposed density.

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 property already exceeds the allowed 19 RV/tent site dwelling unit density by 27 sites. The proposed additional six sites would cause the property to exceed the allowed density by 33 sites which is 173% over the allowed density. The existing sites are squeezed on the property like cordwood and the majority of them are located in the shore impact zone. The property cannot support any more sites.

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

Yes ( ) No ( X )

Why or why not? The variance need is due to the City of Akeley wanting to create more RV/tent sites to accommodate customer demand and provide the City with additional revenue.

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

Yes ( ) No ( X )

Why or why not? The six proposed additional sites would increase the existing number of RV/tent sites by 13%. The campground has been in existence for many decades. The roughly 40 acres of land behind the campground to the southeast is undeveloped and used for agricultural purposes. The dozen or so riparian lots to the east of the north end of the campground along the lake are almost all developed with year-round or seasonal residences on them. The lake lots south of the campground are also developed and used as year-round and seasonal single family residences. Adding six more sites to the campground and increasing its occupancy 13% would increase the noise levels in the neighborhood and traffic on Hillside Avenue NW that provides access to the campground. It is hard to say if the campground is already past the tipping point of harming the locality's character, but the requested six additional sites when the property already excessively exceeds the allowed density would further increase the intensity of this commercial use that is surrounded by residential and agricultural uses.

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

Yes ( X ) No ( )

Why or why not? Economics are not stated as the sole difficulty in the application.

### **Miscellaneous: Planning Commission/Board of Adjustment Meeting Procedure**

Grob asked Buitenwerf where it says a member of the public may not donate his or her speaking time to another speaker, that is intended to be such that if I am a good speaker, speak three minutes and then I say someone else is letting me speak for his three. It isn't necessarily to cut off the situation where people designate someone to speak for them.

Buitenwerf explained in the past we used to have this as a common attempt by certain frequent attendees to solicited donations of time, or attempt to get that entertained by the Board. At a recent training, legal counsel advised the Counties to incorporate this into their procedures.

Petersen opened for public comment.

No public comment was given.

Petersen closed public comment.

Buitenwerf stated if the two amendments are agreeable to the Board, I would just need a motion to adopt this as the new procedure moving forward.

Grob made a motion to adopt the recommended changes and make the current proposed procedure the official procedure for the Board effective immediately.

Johnson seconded the motion that passed 5-0.

**Communications:** Buitenwerf said as a heads-up for the PC/BOA July meeting, we have a plat application on the west side of Lake George with 10 lots for you to consider. There are also at least a half dozen, closer to 8-10 variance applications. It will be a full docket.

**Adjournment:**

Grob made the motion to adjourn.

Petersen seconded the motion.

The motion carried unanimously 5-0.

The meeting adjourned at 10:09 p.m.

Respectfully submitted,

Staci Harvey

Recording Secretary