

HUBBARD COUNTY

Planning Commission/Board of Adjustment Meeting Minutes

6:00 p.m. on Monday, June 22, 2020

The Hubbard County Planning Commission/Board of Adjustment (PC/BOA) held its regular public hearing and meeting on Monday, June 22, 2020 at 6:00 p.m. remotely by electronic means with one or more PC/BOA members present in the Hubbard County Government Center – County Board Room # 324.

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

Andres started the meeting by reading the procedure by which the meeting of the Planning Commission/Board of Adjustment will be conducted to the audience.

Planning Commission:

Approval of Minutes: None.

Old Business: None.

New Business: None.

Board of Adjustment:

Approval of Minutes: May 18, 2020.

Grob asked are you looking for corrections?

Andres replied yes, if you have any corrections, this would be the time.

Grob said there is not a page number, but it is under the Roline application, about three pages before the findings of fact. The item on the left where it says “Grob continued so your previous deck in front of the peak was measured to be 154 ½”. I think that should be 15 ½’.

Andres said thank you Grob. Buitenwerf, did you get that clarification?

Buitenwerf replied yes, the correction is made.

Kovacovich made a motion to approve the minutes with the correction noted by Grob.

Andres seconded the motion that carried unanimously 5 – 0.

Old Business: None.

New Business:

Variance Application 7-V-20 by John and Ann DeCoster: Part of Government Lot 5, Section 11, Township 141, Range 34, Lake Emma Township on Lower Bottle Lake, a recreational development lake. Parcel 16.11.01110. Applicants are requesting a variance from Section 506 of the Shoreland Management Ordinance for a proposed guest cottage that exceeds the allowed maximum height and square footage.

John and Ann DeCoster, 19651 Intrepid Road, Park Rapids, MN 56470, presented the application.

John DeCoster stated we met most of you when you were doing your tour. We happened to be around, so this will be a little redundant. My wife and I, back in 1980, bought the bottom portion of Hoosier Beach Resort from Bill Pauley. He was splitting it up to downsize his resort activities. He wanted to sell it to someone who he knew was going to be around, and had the same values that he did. My brother and I bought this parcel back in 1980. We bought it as a legacy for our families with the idea that we would jointly own it and designate cabins for our respective families. We have two cabins, and he had three cabins of the total five. It was also in the agreement that if one of us were to pass away, that the other needed to buy the other person's interest out. Unfortunately, my brother did pass away last year. We did buy his interest and we own all of the property now. It runs from the creek separating Lower Bottle Lake and Stocking Lake, and then goes down on the neighbors to the west. It is approximately 525' on the road side and 555' on the lake side, ranging in depth from approximately 140' to 280'. As you can see, it is a somewhat irregular lot. For those of you who were out there and we had a chance to meet with, the front is a lot of reeds and natural vegetation. What we are looking at doing is replacing my brother's three cabins. They are old. They are 1940s vintage and in very poor condition. Two of them we already removed. One for primarily safety reasons. One had a gas leak and one had a rotten floor. We kept the third cabin only as a transitional use to allow the contractor to visit for a restroom and also for my nieces and nephews who still need to remove some of my brother's belongings. It will be coming down if this is approved and prior to the completion of the project. We are effectively replacing the approximate square footage of what the three cabins represent today with a new one story 1,832 sq. ft. building, one level. We will use log exterior similar to what we have on our log home, our primary residence on the site. It will have a green metal roof with a 2:1 pitch similar to what we have here, which gets us to the height issue. We want to do the 2:1 pitch so that we will be able to accommodate the snow removal properly. We meet all of the setback requirements from the lake, as well as the roadway. We have two septic systems. One septic system supports our log home, which replaced the two cabins that we owned originally. Then we have another septic system that was sized for the three cabins and meets the requirements for the proposed structure. Both septic systems have been inspected and certified. I believe you got the compliance certificate as part of your packet. We are really wanting to replace very old buildings that are in very poor shape. We have approximately 2.87 acres that we own. We chose the proposed location so that it has a minimal effect on the number of trees that we have to take down. We have a fairly well wooded lot, and we want to keep a lot of that ambiance. We will be improving our distance from our neighbors, who are our good friends, so it is not an issue. We would be going from roughly 40' to 80'. The one single cabin on the left of the

screen that you are looking at, we will be moving the new building back from the lakeshore, so it will actually be enhancing what we currently have for a lakeshore setback. The cabin that would be to the right, the proposed location is in the center of that handwritten drawing. The cabin on the right will be to the left of what you see as a green roof of our existing facility. That will be removed also at the end of this. Everything will be in compliance with all of the requirements for the current codes, which is not the case with the existing facility. We are trying to build this because our families have grown and we are not able to accommodate everybody. We like to have our family here, we have always considered this as a multi-generational, lifetime retreat for our family and our nieces and nephews. That is the overview, the exceptions being the 700 sq. ft. size and the 17' height requirement.

Grob asked from the drawing, the drainfield for both the main house and your proposed new cabin are both on the west edge of the property, is that correct?

John DeCoster replied that is correct.

Grob continued is there a possible alternate drainfield site on the side of the property where the main house is?

John DeCoster answered that side of the property is closer to the lake. I don't believe so, and I think that is why they put it up there originally because they were trying to keep it as far from the lake as they could.

Johnson asked did you look at the possibility of subdividing this property at all? To avoid doing a variance for an oversized guest house.

John DeCoster answered yes I did when we first learned of the restriction of 700'. We talked to Lindow Surveying and he did pull up the site on his GIS. He started doing some calculations of the requirements, and because of the irregular nature of the site he did not believe that you could separately parcel it and meet all of the requirements. Due to the wetlands, the irregular nature of the lot, and the fact that it is narrow down by where our existing building is, which we did get a variance for. He just thought that the irregular lot would not allow that to happen.

Andres opened for public comment.

Karen Spillman, 19585 Intrepid Road, Park Rapids, MN, stated I am the neighbor that John mentioned in his opening remarks. My family has been on this lake for 57 years. My parents bought the property, and now I own it with two of my brothers and their families. We have been neighbors with John and Ann for about 40 years. Our children grew up together, and now our grandchildren are now growing up together. It is really more like one big family. As John has told you, his brother passed away last year. It was a difficult decision to take down those three cabins that belonged to his brother. His brother's children were using those cabins, but they were so old and in such disrepair. They were not well maintained. He made the decision to remove those cabins and build one large guest house so that his brother's children could continue to come up here and enjoy what they have had their entire lives.

There is a resort on the west side of my property, and I own a unit over there. It used to be Home Bay Resort, now it is Home Bay Camp. Several weeks ago we had a homeowner's association meeting, and everyone there had received a letter about John's plans. They were all very much in favor of it. This new guest house will be a tremendous improvement over what is there now. There will actually be more open space than there was with the three cabins. They were kind of crammed together. It is sad that they were not well maintained. John has a beautiful home and he takes care of, not only his lawn, but he takes care of my lawn. We share a beach. This will be a great neighborhood improvement. I know that everyone in the neighborhood will really appreciate it. As I said, our families have been together for 40 years when John and Ann bought the property along with his brother and his family. The placement of the cabin is very appealing, it will open up more space, and it is actually further away from my cabins than before.

A written public comment letter was submitted in favor of the request.

Andres closed public comment.

Andres added I do have a question, have you considered making any additions to your current home?

John DeCoster replied no we have not.

Grob said a well is shown TBD, does that imply that a new well has to be drilled for your proposed new guest cabin?

John DeCoster answered whether we have to or not, I am proposing to. In the event that the well for our current cabin were to become non-operational. We are also planning on winterizing. It would be easier for it not to freeze.

Grob stated when I was out there, you mentioned that the total property is 2.8 acres. Does that include property that is below the ordinary high water mark, the wetland? Or is that actually above the ordinary high water mark?

John DeCoster responded my understanding from the survey when we bought the property is that it was above the ordinary high water mark. It is not including anything beyond the ordinary high water mark.

Johnson added in the public comment, and in our staff report, it shows that there have been three cabins removed. The owners said there are only two. From what I understand there is one left, and two that have been removed. Is that correct?

John DeCoster answered that is correct. The reason that we kept that last one is because my brother's children still come. Two of them are located out of state. They needed to get back and get his belongings. We kept it as a transitional cabin, and also for the construction workers to use for restroom facilities so that we did not have to put a porta-potty on site.

Johnson asked Buitenwerf if the applicant would have wanted to, would the County allow him to rebuild on those exact locations brand new? They predated the Ordinance. Would he be able to redo the one that is still existing?

Buitenwerf answered as to whether those could be rebuilt on those footprints, since they have been removed, that is a question that I would have to run by legal counsel before I would be able to answer.

Johnson continued the concrete outlines are pretty definite to where they were and the size they were. There is one still standing. He would be able to rebuild the one that is still standing to the exact airspace that it holds right now, correct?

Buitenwerf replied if it is still standing. I was of the impression that all three had been removed.

DeCoster explained there is one still standing.

Grob added cabin 5 still exists.

John DeCoster agreed cabin 5 is still standing. In our application we did state that if we had renovated those cabins, not one of them was big enough to handle either of my children's families. We would still end up with parents and kids sleeping in different buildings. That is really not what we are trying to get to.

Ann DeCoster added the concrete slabs are all cracked. So we can't use the existing slabs.

Johnson said those could be removed and built new.

John DeCoster stated we are putting a forced air furnace into the new facility. From an economic standpoint, that would not be a return on investment if you did it for three separate facilities. We are trying to get something functional for our family, and the multiple building approach just doesn't work.

Grob said it is clear that the size is way out of line for what would be allowed for a guest cabin. I think the Board is looking for a way to allow you to do something. A guest cabin that large is inconsistent with the Ordinance. That is why Johnson, or Andres, asked you the question about it being subdivided and still meet all of the requirements. What was the requirement that Lindow said possibly couldn't be met?

John DeCoster answered he said the irregularity of the lot would not allow them to meet the dimensional needs to separately plat them.

Grob said it is 40,000 sq. ft., and what is the required buildable area?

Buitenwerf answered it is 20,000 sq. ft.

Grob clarified so 40,000 sq. ft. is a standard lot, and 20,000 sq. ft. has to be buildable.

Buitenwerf answered correct.

Grob asked given that it is problematic for us to approve this, would you consider having the surveyors try to find a way that it could be split? Then you would have two lots with the equivalent of homes on each of them.

John DeCoster replied it is \$3,500 and probably another two months of a process, which then gets me out of the construction year.

Grob said I understand that. You said two months to do what?

John DeCoster answered by the time I go through a surveyor and do that, then bring it back, get a building permit, and then getting resynced with my contractor. There would be a chance that I would not get it done this year.

Grob added my personal issue is not so much keeping the full lot as it is and building on it, as long as restrictions were put on it. We would have to make sure that in the future it could be split and meet all of the requirements. Otherwise, the 1,800 sq. ft. guest cottage is just out of line with the 700 sq. ft. that is allowed.

John DeCoster explained this is a multi-generational family thing. Certainly not in my lifetime, and certainly not in my children's lifetime, it is not going to be split.

Ann DeCoster stated we are just trying to replace the square footage that was there before with the understanding that it was before all of the current requirements.

Andres added I appreciate your input. As members of the Board, we have five findings of fact questions to answer affirmatively in order to approve this type of variance application. There are still many of them that we can't answer affirmatively when there are some permissible options. You are able to add on to your existing home, and have a guest cottage that does not exceed the 700 sq. ft. I agree with the other members as well, if you are able to subdivide, you would be able to build something possibly at the size that you are requesting.

Johnson asked if they were able to subdivide they would be achieving what they are asking to do? My question is if I would rather have the three separate structures built brand new, and the effect on the lake of the three brand new structures built, or one new structure built. One of my only problems would be that he is asking for more square footage than what was existing. Not so much the size of the single structure, as much as exceeding above what the existing was. That is where I am sitting. Is the variance in harmony with general purposes and intent of the official controls? I would say the structure replacing those existing cabins would have less or decrease any negative effects to the lake. That would be in harmony in my opinion.

Grob added I would agree with Johnson's observations. This would be an improvement overall. Maybe a variance is an option, but I would like to feel comfortable that in the future it could be split and meet the requirements. That is what is holding me back. I would be in favor of the variance, but I would like to have the confidence that it could be administratively separated into two lots. Then you would have a home on each.

Kovacovich said I have trouble with the thought that it isn't large enough to meet the requirements to be split into two lots. It is a very irregular lot, but if in fact the measurements are all from the ordinary high water mark, it appears to me that the lot could be split into two. Then he can build whatever he wants by permit as long as it meets the setbacks. I am not really confident that this cannot be subdivided. In the same token, if there are assurances that if it is ever subdivided there would be no more building on either side. I think I could be comfortable with that, but I would like to know definitively if it could be subdivided.

John DeCoster stated we would be more than willing to have a statement on the deed that there would not be any additions. This is it. That is not an issue as far as we are concerned.

Andres added if it does happen to go that route where a condition can be placed.

Petersen asked Kovacovich how would we assure that tonight, if we were to vote, an assurance that it could be subdivided? I don't see how we can achieve that this evening.

Kovacovich said that is part of my point. Without the survey and knowing exactly whether it can or can't be, it is a difficult decision in my mind.

Andres commented we do have the option of tabling the application to give the applicants time to have the property surveyed.

Grob stated I think that is a good option.

Andres asked would you be open to us tabling this item for you to get some confirmation, and have a survey for your property?

John DeCoster replied I don't know. It will take a month to get a survey, and another month to get on your agenda again. Then I have lost the construction year.

Johnson asked if it was not able to be subdivided, would you be more in favor of three brand new cabins that could be there, or one new structure of a size that was mitigated?

Kovacovich replied unless Buitenwerf answered the question that in fact he now could build on all three foundations, since two of them have been removed. It seemed there is some doubt that whether he can still build on all three.

Andres added that is the information that I got from Buitenwerf as well. He needs to seek legal counsel about rebuilding the two that have already been demolished.

John DeCoster stated we are not interested in that option.

Ann DeCoster added it creates three cabins that are each almost 700 sq. ft., which does not follow the guidelines. The guidelines say only one 700 sq. ft. cabin.

John DeCoster continued I would throw out an idea, Kovacovich. Would you approve it contingent on getting a survey, and let the results be what they are of the survey?

Kovacovich replied I don't think I would be comfortable with anything contingent on a survey. I think the survey would make some determination on what you can or can't do. My question would be to Buitenwerf. If in fact this was tabled, and if the survey was obtained before the next meeting, could this not be on the agenda for the next meeting being that it was tabled?

Buitenwerf answered that is possible. I would need to look. We would have two, maybe three weeks in which they could get that survey to us, so we would have sufficient time to get it distributed to the Board for review prior to the next meeting.

Petersen asked Kovacovich what would be the need for the survey in that situation? Can you clarify for me what we would do with it?

Kovacovich responded if the survey found that it could, in fact, be subdivided, they could then subdivide this into two lots and build by permit without a variance. If there is no need for a variance, why would we approve a variance that is so out of line with the Ordinance?

Petersen clarified you are suggesting to the homeowner that they get the survey, try to get back on next month, and that they divide this property if possible? Then they could build by permit?

Kovacovich said that is one option. I can be comfortable with this, but I don't know how we get the assurances that if it is ever subdivided, whether 10 years from now or 50 years from now, that no more building takes place on either lot. No more increases in size.

Grob asked if they came back with a survey that said the two lots can be administratively separated, I would be willing to approve the variance and then put the proper conditions on it as to what could happen in the future. We could allow this large structure, knowing that if they wanted to split the property they could. We could do it with a variance and then they wouldn't have to split it. They seem very reluctant to split it.

Andres added I am not so sure about the reluctance to split it, but I am noting that they would like this size. That is where Kovacovich and I both agree that if it was split, then they could build what they want by permit. They are very intent on building something to fit their entire family in one building. That is what I am getting from this conversation.

John DeCoster answered that is correct from our perspective.

Andres continued the clearest cut to do that is to seek a survey, since your project is clearly not in harmony with our official controls.

Petersen asked is the fastest route to do that to table this and let the applicants get that survey, as opposed to simply denying and letting them pursue the survey and come back with a new application?

Andres answered that seems to be the clearest route for myself.

Petersen clarified to table it?

Andres replied yes. I think tabling it would give them time so that they can have a surveyor possibly give them the information needed to get on next month's agenda.

Grob asked the easiest way to get what you want is to do an administrative split of the property? Why wouldn't you pick that course? Why are you reluctant to own two pieces of property, as opposed to one with the same situation?

John DeCoster explained then we get into beach access issues. The beach only serves the westerly property.

Ann DeCoster added we end up with easement access issues for the east side.

Grob stated you would own both of them. Splitting it doesn't make any difference. You would still own both of them. You still have the same situation.

John DeCoster agreed. Technically, you are correct.

Kovacovich made a motion to table the variance application in order to allow the applicants time to get a certificate of survey to see if the property can legally be subdivided.

Petersen seconded the motion that passed 5 – 0.

[Variance Application 8-V-20 by Michael Bessler:](#) Part of Government Lot 2, Section 16, Township 143, Range 34, Lake George Township. Parcel 17.16.06200. Applicant is requesting to modify a condition placed on Variance 36-V-19.

Michael Bessler, 37238 US 71, Lake George, MN 56458, presented the application.

Bessler stated last summer my father had a variance approved for a piece of property that adjoined his with the intention that he knew I wanted to purchase that from him and put up a small two bedroom house. I had actually received blueprints for the structure that I wanted to build. I was planning on going ahead with that this spring. Then I saw an ad in the paper for the Park Rapids Industrial Education home project. I placed a bid and I ended up being the lucky winner of that bid. The house was a two bedroom home, just like I wanted to build.

Really, the only difference was a little bit different footprint. 16 sq. ft. is the difference between what was approved and this home. There was a condition that was placed on the approved variance that my dad had received last year. That was a 36' x 40' building that I had planned on constructing this spring. The home that I bought from the Park Rapids school is actually 52' x 28'. If you do the math, it is a 16 sq. ft. difference. It does not conform to the condition that was placed onto the approved variance.

Andres asked Buitenwerf can you please pull up his application?

Buitenwerf replied I have it on the screen.

Grob said the original structure obviously met setbacks from the road easement and the setback from the easement to the structure. When I look at the new drawing, the longer dimension on the structure looks like it might be getting closer to Night Hawk Road. I couldn't tell when I looked at the stakes. I had no way to know as to whether or not we can ensure that all parts of the structure, including the eaves, meet the setback. Which I believe is 50' from the easement line?

Buitenwerf replied Night Hawk Road is a township road. The required setback is 20' from the edge of that right-of-way.

Bessler added my drawing skills are a little lacking. The actual building is the same print that was approved this past year. It just narrows it a little bit.

Johnson stated I think it is a more favorable location because it makes more room for septic in the back. He had more width in the front. I did ask about the setback when I was there, and Mike and I measured that out.

Grob mentioned there were some conditions on the original Variance 36-V-19. Do those all go away with this variance now?

Johnson added I believe I made those conditions with the intent to not increase the size or location, mainly because it is an undersized lot and it was more of a guess at what the structure was. There was never really even a plan at that time. The intent of the condition is still being maintained with this application supplied now. For the conditions to stay, I guess I would let the condition follow with the decision.

Grob clarified, but change the dimensions?

Johnson replied correct.

Andres opened for public comment.

No public comment was given.

Andres closed public comment.

Andres added I agree with the staff report. I do not see an issue with the additional 16 sq. ft. It is the responsibility of the applicant to meet the setback requirements. I think with the

positioning change, if we follow through with that condition and new dimensions, that is kind of where I am sitting.

Petersen stated I support what you are saying. I am in support of it.

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

1. The proposed structure on parcel 17.16.06200 must not exceed the 52' x 28' footprint shown in the application with no more than 2' soffits and stay in the location that it is being proposed in the application.

Petersen seconded the motion that passed 5 – 0.

The motion carried unanimously 5 – 0.

The Board adopted the staff report findings of fact.

Findings of Fact

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

Yes (X) No ()

Why or why not? The proposed structure will meet all setback requirements and will not cause the lot to exceed the 25% impervious surface area threshold. The size of the structure increasing 16 sq. ft. from the 1400 sq. ft. proposed in Variance 36-V-19 is an insignificant increase that will not harm any of the ordinance's intents to its regulations. The new proposed structure square footage is very reasonable in size at 1456 sq. ft. considering most standard single family residences are 2000 sq. ft. + in size these days.

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 proposed structure is only 16 sq. ft. larger in footprint than the 36' x 40' footprint structure proposed in Variance 36-V-19 that was memorialized as a condition to that variance. The proposed structure was obtained by the applicant in a cost-effective, reasonable manner from a bid made for a pre-built home constructed by an area high school trades class.

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 variance is required due to a condition placed on Variance 36-V-19 by the Board of Adjustment last year that specified a maximum square footage allowed for a residence placed on the lot. This condition was beyond the property owner's control. There is sufficient room on the lot to accommodate the new proposed 28' x 52' footprint structure.

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

Why or why not? The locality is a mixture of seasonal and year-round single-family residential uses. A 16 sq. ft. increase in the size of structure allowed to be placed on the lot from what was authorized in Variance 36-V-19 will not have any negative impact on the locality's character.

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

Why or why not? Economics were not cited in the application as a difficulty. The difficulty is the condition placed on Variance 36-V-19 which was mainly used to memorialize and ensure that the size of structure proposed to be placed on this lot in the application and thus that served as one of the reasons why the Board of Adjustment approved the 36-V-19 variance would actually be what was placed on the lot. Had the applicant then proposed the current 28' x 52' size residence, the Board would have simply memorialized that size of structure in the condition instead.

Variance Application 9-V-20 by Terry Seter: Part of Government Lot 1, Section 29, Township 140, Range 34, and Part of Outlots 3-5, Shady Point, Section 28, Township 140, Range 34, Henrietta Township on Long Lake, a recreational development lake. Parcel ID 13.44.00600. Applicant is requesting a variance from Section 701 of the Shoreland Management Ordinance for a proposed replacement of a structure devoted to a nonconforming use.

Terry Seter, 17976 Dayspring Drive, Park Rapids, MN 56470, presented the application.

Seter stated I am requesting to build a 32' x 40' garage and storage shed.

Grob said when I was out there, there were no stakes or ribbons except for one next to the propane tank on the back side. It is hard for me to tell where the back side of your new garage and steps were going to be relative to where that propane tank and the septic clean out are.

Seter responded the tank will be moved, and four trees will be removed.

Grob continued have you had the setback from the lake measured?

Seter answered yes.

Grob explained I am concerned because you are building a set of stairs to the second floor on the outside, on the lakeside. I just want to make sure that your setback numbers include that set of stairs when you build it.

Seter replied I assume it will. I didn't do the measuring myself. My nephew did. He is a contractor. I can ask him. He isn't here right now, but I am sure that it is. If not, it will be for sure.

Grob asked what is your planned use of the second floor where the steps lead up to?

Seter answered it will be storage.

Grob asked why don't you build the steps on the inside?

Seter responded it just takes up too much room.

Andres asked will there be living quarters on that second floor? You said just storage, so there is no living quarters?

Seter answered no.

Andres opened for public comment.

No public comment was given.

Andres closed public comment.

Johnson asked Buitenwerf if a permit was submitted for this, would one of your technicians do the setback measurement, or would you rely on the contractors?

Buitenwerf responded it depends on the situation. We certainly can go out and locate that for them if the Board would so desire. Normally, often it is the landowner's call. Most people see that they comply with the setback, but we can certainly go out and measure it if there is ever a question.

Andres asked Buitenwerf do we need approval from Henrietta Township?

Buitenwerf answered no.

Kovacovich made a motion to approve the variance application with the condition that the Environmental Services Department must mark the 100' ordinary high water mark structure setback for the proposed structure.

Grob seconded the motion that passed 5 – 0.

The Board adopted the staff report findings of fact.

Findings of Fact

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

Yes (X) No ()

Why or why not? The proposed structure will meet all setback requirements and the property will continue to comply with the 25% impervious surface area threshold. The proposed garage will occupy the space where the current garage sits so its aesthetic impact to neighboring property owners and parties recreating on the lake will be minimal.

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

Yes (X) No ()

Why or why not? The existing garage is small and not in the best shape. Thus, replacing it with a new, larger garage that provides additional storage for the resort use and meets current Building Code requirements is a reasonable use.

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? Because the property use is a resort that predates the ordinance, the ordinance views it as a nonconforming use for which a variance is required in order to replace the existing garage with the proposed garage. This ordinance requirement is beyond the landowner's control.

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

Yes (X) No ()

Why or why not? The proposed new garage will replace an existing garage and be placed in the same location. The resort occupies a point that juts out into Long Lake so where there normally would be neighbors to either side, the shoreline wraps around the sides of this property. The locality is a mixture of seasonal and year-round residential use and another resort use two properties to the southeast of the subject property. As garages are a common accessory structure seen on both of these residential and commercial property uses, the proposed structure ought to maintain the locality's mixed residential/resort feel.

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

Yes (X) No ()

Why or why not? Economics are not cited in the application as a difficulty. The difficulty is due to the resort predating the ordinance and thus being a nonconforming use for which the ordinance requires that any structural modification such as is proposed requires variance authorization.

Variance Application 10-V-20 by Brittany and Chaz Dobias: Part of Government Lot 1, Section 15, Township 141, Range 33, Mantrap Township between Middle Crooked Lake and East Crooked Lake, natural environment lakes. Parcel ID 20.15.00110. Applicants are requesting a variance from Section 701 of the Shoreland Management Ordinance for a proposed accessory structure devoted in whole or part to a nonconforming use.

Brittany Dobias, 25138 County 2, Nevis, MN 56467, presented the application.

Dobias stated we are requesting a 32' x 34' one and a half story garage to be built behind our house. The loft will be used as an office/storage for my husband's business. There will be no living quarters and no plumbing in the garage.

Andres said you mentioned that there might be an easement on that side by the property line.

Dobias replied when we bought the property in November, we were told that there was possibly an easement that went along the property line. We have it gated off to Hazelnut Drive. We do not allow anybody to cross that. I don't know 100% of the details of that easement, I was just told by others that there is a possible easement in place. I don't know if that is more or less for the road from our campground into Hazelnut. I am not 100% sure on where that all falls into place.

Andres asked Buitenwerf do we have setback requirements for this possible easement there?

Buitenwerf replied no. The Ordinance does not require a setback from an easement, but as you see on the parcel map on the screen, the easement appears to be entirely on the neighbor's property. There is just a 10' property line setback that would apply to the proposed garage.

Andres stated when I was there we visited about a possible retaining wall for the land behind where the garage is going to be. Do you have plans for that?

Dobias answered I did talk to our contractor today, and the plan is to put up a retaining wall to maintain the land behind the new structure. We will have a retaining wall in place.

Andres opened for public comment.

No public comment was given.

Andres closed public comment.

Andres noted we have received correspondence from Mantrap Township, and there aren't any zoning regulations or approval requirements for this construction.

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

Grob seconded the motion that passed 5 – 0.

Findings of Fact

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

Yes (X) No ()

Why or why not? The proposed structure will meet all setback requirements and the property will continue to comply with the 25% impervious surface area threshold. The proposed garage will be 265' from the nearest of the two lakes (i.e. East Crooked) so its aesthetic impact to the nearest neighboring property owner to the east (the garage is located further away from the lake than the neighbor's house which sits at a ~150' ordinary high water mark setback) and parties recreating on the lake will be minimal.

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 owners currently lack a garage for their own personal use. Thus, a new garage that provides needed storage for the owners' personal items and the resort use, and meets current Building Code requirements is a reasonable use.

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? Because the property use is a resort that predates the ordinance, the ordinance views it as a nonconforming use for which a variance is required in order to replace the existing garage with the proposed garage. This ordinance requirement is beyond the landowner's control.

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

Yes (X) No ()

Why or why not? The proposed new garage will be over 100' behind the required 150' OHW setback and thus placed behind the adjoining landowner's to the east house. It will not be visible from County 2 which runs along the west side of this portion of the resort. The nearest neighbor to the north and west of the property is 850' northwest of the proposed garage location. The locality consists of seasonal and year-round residential lots to the east, Middle Crooked Lake to the west, and large tracts of undeveloped land to the north. East Crooked Lake lies south of the resort. As garages are a common accessory structure seen on both residential and commercial property uses, the proposed structure ought to maintain the locality's mixed residential/resort/undeveloped feel.

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

Yes (X) No ()

Why or why not? Economics are not cited in the application as a difficulty. The difficulty is due to the resort predating the ordinance and thus being a nonconforming use for which the ordinance requires that any structural modification such as is proposed requires variance authorization.

Variance Application 11-V-20 by Timothy and Linda Conely: Part of Government Lot 4, Section 28, Township 141, Range 34, Lake Emma Township on Big Sand Lake, a recreational development lake. Parcel ID 16.28.00600. Applicants are requesting a variance from Section 902 of the Shoreland Management Ordinance for a proposed grading/filling project within the shore impact zone that exceeds permissible volume.

Timothy and Linda Conely, 17710 Golden Eye Lane, Park Rapids, MN 56470, presented the application.

Timothy Conely stated just to give you a little history, we purchased our property in 2008 after many years of looking for the perfect property that fit our criteria. We wanted a nice big lot that we could build on with a storage shed and a retirement cabin, level property with a

nice even lakeshore, and access to the lake for our elderly parents and grandchildren. We started investing in our property the last two years. We have been putting up a storage shed and have started looking at a retirement home. We have had a contractor on site, and we have a plan for what we will be building on the property. Over the years we have started losing our nice slope, our access to the beach. The rain and the waves have washed out our beach and have made it very steep. We used to store hydro bikes on the shoreline and we can't anymore because they fall right down the hill. My wife and I can't carry our kayaks up and down anymore. We are scared to put in our boatlifts because they would tip over. We are requesting to have our contractor, Jody, from Racer Construction, come out and bring back the shoreline further into the property, taper it down, and remove the fill that is there. Then he would put a berm up at the top that would hold back any water from washouts. He would be able to maintain that property, yearly or monthly, whatever it would take to keep our shoreline from washing into the lake. All of the trees that we planted along the shore would be moved back out of that zone so that Jody could get in there and do that work.

Grob said when I was out there I noticed that there is a dock to the left of what I think is your property. There is a pontoon. That is not yours, I assume?

Timothy Conely answered correct.

Grob added to the right there was a dock that had a boat, which I think might be on the resort's property. Is that true?

Timothy Conely replied correct.

Grob continued I think I saw dock equipment sitting on your property. How do you put your dock into the lake?

Timothy Conely stated we typically roll it right down the shoreland where you saw those boatlifts sitting. That is where we would typically go down to put our equipment in, to the right of the walkway.

Grob asked you put it down over the bank?

Timothy Conely answered yes.

Grob continued and you put a dock out then, what kind of boat do you use?

Timothy Conely replied we have a pontoon and an inboard/outboard boat. All of our dock sections are in the storage shed up at the top of the hill.

Grob asked your current access to the lake is a set of steps sitting there that you attach together to walk down the bank?

Timothy Conely added correct, and that has gotten so steep and washed out that we can't put those on either.

Grob asked how long has that platform been there right at the edge of the bank?

Timothy Conely answered there was an existing sidewalk that went down when we purchased the property. We just built that platform on top of there in 2009. It is just a removable platform.

Grob asked Buitenwerf does a platform like that require a permit or a variance?

Buitenwerf responded yes. It would need to meet the 100' setback and receive a permit. That would be an open item that we would need to address.

Andres opened for public comment.

Dan Dyre, Evergreen Lodge, 17838 Golden Eye Lane, Park Rapids, MN, neighbor to the south, stated we are in favor of this, and as far as I know, the rest of the neighbors are as well. For some reason these last years that end has gotten steeper and steeper and it is really not very usable anymore. I certainly would support making it more usable and a more gradual slope.

Jody Yliniemi, authorized agent for the applicants, 26299 Eagle Bay Road, Osage, MN, stated when we were there staking that out it was a really calm day. I don't know when the Board was out there looking, but when I was staking that you could see the actual sand dune that has been created by all of the sand washing out in front of the property about 7-8 feet into the water. You can kind of see it in one of the pictures that you have. It is an actual underwater sand dune out there about a foot high.

Andres closed public comment.

Andres stated during the lot viewal, as you had mentioned, there is a stairway on the platform that was created. It did look fairly new, like you had created it not too long ago, the stairs themselves as well. I saw some of them were not quite in place. Can you put those in place at this time?

Timothy Conely answered no. The washout has gotten so bad that they would just hang in the air. There is no using those steps. Like you said, the structure that is there, if we were approved to do this that platform would be gone. We would no longer need that platform because it would all be level to get down to where we need to go. We would actually be getting rid of any water running over concrete or landscape blocks and washing into the lake.

Grob asked why are you asking for all 250' of your property line? Why not a small area just for access down to the lake? Why would you want to do the entire 250' if it was merely to make easier access to get your boat lift and down to the water's edge?

Timothy Conely replied we would like to restore it back to its original state when we purchased the property back in 2008. That is what we had, we had a nice sloped beach just like you see at Evergreen Lodge to the south. What we are trying to do is to restore it for future generations and for the health of the lake. We love the lake, and we want to keep it as nice as it is.

Linda Conely added the berm that would be built would control the runoff. We had some rain a few years back that had washed out a lot of the beach where you could walk into that area. That is why there is a big sand dune out in the lake. It was from the beach that we had. It is not only the boat lifts and the dock, but we also have kayaks and hydro bikes. We used to have the hydro bikes on the beach, and now we have lost so much beach that they slide down to the lake. The kayaks too, we used to have no problem going up and down the slope. Now it is dangerous to bring the kayaks up. We do more kayaking and hydro biking than we do go out in the boats actually.

Grob asked if ten years ago you had a much more gradual slope, and wave action has slowly eroded that and washed it back out into the lake, if you do this cut back, what is to keep the lake from continuing to erode away? Ten years from now you are going to be back to the same situation.

Timothy Conely answered we would have the same maintenance program that Evergreen Lodge would. We would maintain as often as need be to keep it as is. Jody would do that for us.

Linda Conely added we would have a berm built. When we get heavy rains, that has done a lot of damage too. We would have that built up at the edge so that it wouldn't wash out the beach anymore.

Grob stated it seems to me that you already have a berm there. What erodes your beach is the wave action from the lake. I don't see that being solved by cutting back the bank as you want to do it. Maybe I don't understand how it all happens, but that would be my observation.

Linda Conely explained the berm would be higher than what there is now.

Timothy Conely stated that berm was developed some years ago when we were able to maintain the beach a little bit, but right now the contractor said you can't even maintain it because it is so steep. They can't ride on that edge with anything. We had built that berm up some years ago when they did that for us, but the waves have gotten to it.

Linda Conely added and the runoff and the ice.

Andres asked Buitenwerf do we have any historical footage or overhead views of ten years ago on the property?

Buitenwerf replied I can put them up. I don't know how helpful it will be. This is 2011. That will be our most accurate. I can turn on other years as well.

Andres said thank you, I appreciate that. That is perfect.

Grob stated the property to the south is a resort, Evergreen Resort. Have they experienced the same washout result as you have over the last ten years? Has their steep bank gotten steeper, experiencing the same result as what you are seeing on your property?

Timothy Conely said Dan Dyre could tell us that. His has stayed pretty good. He maintains it often to keep it.

Dyre stated any washout in the heavy rain, there is almost no way to stop it, but to push it back and straighten it out again. We finally got a high enough berm on the top now that it holds it for 95% of the time. That is what it takes because it does collect a lot of water down there. You would get some huge gullies otherwise. We just put everything back to where it was and it maintains there.

Grob asked the property to the north of you, to the left as I face the lake, it seemed to be very much like your property right now with a fairly steep bank. Is that your perspective also?

Linda Conely said compared to what ours is now, yes. But ours used to be like the resort's when we bought it. We paid a lot for this place because of the beach and the land. The cabin was built 90 or 80 years ago. That was not the reason we bought this property, it was more the land and the beach. The beach was important for the children and for our elderly parents.

Timothy Conely added if we don't do this project we risk losing more of the bank. Pretty soon we are going to have trees washing in, dirt, and lots of things we don't want in the lake. We are willing to put the investment in. It is not going to be cheap. We are willing to do it to keep everything out of the lake and stop the washouts. We are doing it right going through the Board and asking for approval.

Grob stated a good buffer zone along the edge of your property would do far more for washout than doing what you want to do.

Timothy Conely said we purchased the property without weeds or barriers in front. That is what we want to get it back to.

Linda Conely added we would like to restore it.

Andres stated as Grob asked earlier, what about maybe removing some of the sand and not the entire shoreline? When we look at it, it is removing approximately 41 dump trucks full of earthen material. That just seems a bit excessive. It would significantly change the character of the lot and the shoreline.

Linda Conely answered if it would bring it back to what it was when we bought it, the only thing is that it is washed into the lake. It is steeper.

Grob added I am on the same wavelength as Andres. We have, through ice ridges in the past, allow small cuts in a bank to make it easier to put in docks and to get access down to the lake. I am still back to the question of why wouldn't a 10' slot, instead of the whole 250', be a better solution?

Linda Conely replied a 10' slot would not get the boat lift in there, and then also for our kayaks and hydro bikes. We always had those on the beach. Right now they are sliding down into the lake. We can't keep them there anymore. Hauling them up and down is dangerous. We utilize more than just 10' of the beach.

Timothy Conely added if we are willing to preserve the beach on the lakeshore, why wouldn't the Board want to do that? If we are willing to make the investment and not ask for any kind of support money wise, we will pay for it, why wouldn't you guys want to stop erosion?

Kovacovich stated preservation can be interpreted a number of different ways. To me, what is going on is a natural process of wave action and rainfall. I just don't see how you stop that and how you can change that from reoccurring time in and time out without continually asking for permits to be moving material. You want to preserve what was there 10 years ago. What if we preserve what was there 100 years ago? It is hard for me to grasp when someone says preservation. What are you preserving? If you are preserving the natural state, it is not 10 years ago that we need to start from.

Timothy Conely asked Jody Yliniemi do you believe that if we were to do this, that you would be able to maintain exactly what you start with from day one?

Yliniemi stated for wash out or an ice ridge you would take an excavator in and pull everything back out, and put the slope back in on the sand the way it was when it was finished and done.

Johnson asked has public comment had been done?

Andres replied we have, and it is closed. Jodi Yliniemi is their authorized agent.

Johnson said I see. I am not in favor of taking any of that 250' out. I would remove the pad, and maybe allow a small entry in there, and require vegetation of 50' back the whole width of the lot.

Kovacovich added I concur.

Petersen asked Johnson the vegetation you are talking about, to me the difficulty is this whole span of beach is open sand. I think with every rain, and not even talking about wind action, it is subject to erosion. Are you thinking of requiring vegetation up to the water?

Johnson replied I would say let it grow back and don't mow it, naturally vegetated.

Grob added I am on Johnson's wavelength. I think a slot cut to the lake. We typically allow a 10' one with taper on the side, make sure there is a berm as being proposed right along the edge of the top of the sand, and then a regrowth vegetation. More than just no mowing, plants that would hold the soil and prevent any erosion from off of the property. 25' would be sufficient if you would do a berm. That to me is the only thing that is going to prevent erosion from off the land. I am with Kovacovich on the fact that anything down by the water has been going on long before any of us existed.

Andres said Mr. and Mrs. Conely, I think you can see the Board members are not in favor of removing all of that earthen material for the entire length of the property. It is not in harmony with our Ordinance as well. The slope is characteristic for Big Sand Lake. Your neighboring property on the one side is very similar to yours. It appears there are some options for a 10' slot or a 25' with the berm and some revegetative construction. Would you be open to something like that?

Linda Conely stated 10' is not even big enough for the boat lift to get in.

Andres said you did clarify that you were putting your boat lift in over the edge as you did last year.

Linda Conely replied we didn't this year, it is too steep.

Andres said I thought you mentioned that you did it last year. This year it is still sitting on shore.

Grob commented we have several times allowed cuts through ice ridges at 10', which is more than sufficient to get any boat into the lake on a trailer if you are trying to get it launched or pull something up.

Linda Conely explained we can't put the boat in from there.

Grob clarified I am sorry, I meant your dock. You are able to get your dock down and conveniently be able to walk down to the lake. You could carry your kayaks and canoes up and down through that slot.

Linda Conely stated the boat lift wouldn't fit through 10' though. The boat lift is wider than 10'.

Grob mentioned I don't think boat lifts are wider than 10', or they couldn't transport them on a road.

Timothy Conely stated it is probably in that 10' range I am guessing. It has pads on the bottom.

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

Johnson seconded the motion that passed 5 – 0.

The motion carried unanimously 5 – 0.

Findings of Fact

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

Yes () No (X)

Why or why not? The proposal seeks to remove 410 cubic yards of soil in the shore impact zone along the full 250' width of this lot to reduce the existing slope to an extremely low 5:1 slope. This lot's slope is characteristic of the slope of shoreline found on the majority of Big Sand Lake. If this request was approved, where would the County say "no" as other landowners on the lake would then follow suit and want to regrade even more extensive and steep slopes and bluffs on their lots if this lot is allowed to do what is proposed. Other much less impactful solutions exist such as not mowing the lawn so close to the ground right up to this slope, allowing or facilitating the establishment of dense, native vegetation, and constructing a stairway with handrails as a safe means of traversing the slope.

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? Removing approximately 410 cubic yards of soil to reduce the slope across the full 250' width of this lot to 5:1 when the majority of Big Sand Lake's shoreline is as steep or steeper than the slope on this lot would not be a reasonable use of the property. If safety in people traversing the slope is a concern, other much less impactful measures such as constructing a set of stairs with handrails to safely cross the slope could much more easily be installed.

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? Many riparian properties on Big Sand Lake and other lakes in the county and state have much more steep and extensive slopes than the slope on this property. If this property is justified in reducing its slope to the proposed 5:1, where would the granting of variances stop? Hundreds of lakeshore owners would then be asking for and allowed to remove hundreds of thousands of cubic yards of soil and vegetation that would significantly, harmfully forever alter the look and feel of lakeshores in the county.

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

Yes () No (X)

Why or why not? The shoreline slope on this property matches the shoreline slope on the other adjoining lots to the north and south for significant distances. Allowing the full width of this lot's shoreline to be reduced to a 5:1 slope by the removal of 410 cubic yards of earthen material would cause the lot to stand out from the others when viewed from the water.

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

Yes (X) No ()

Why or why not? Economics are not cited in the application as a difficulty. Safety of those traversing the slope to get to and from the lake is cited as the primary reason for requesting the variance.

Variance Application 12-V-20 by Theresa and Kim Saulsbury: Part of Government Lot 3, Section 16, Township 139, Range 33, Crow Wing Township on 3rd Crow Wing Lake, a recreational development lake. Parcel ID 06.16.02400. Applicants are requesting a variance from Section 502.2 of the Shoreland Management Ordinance for a proposed structure to be located within the 100' ordinary high water mark structure setback.

No applicant was present at the meeting.

Grob asked Buitenwerf your staff redid some measurements. If I recall, it ended up being 87 ½' from the lake and 62' from the road right-of-way. You were thinking that the footprint was 85' and 60'. I am just trying to repeat what I understood, and that the proposed structure could be moved toward the road another 10'. Then they would be basically 95' from the lake and 50' from the highway. The question that I would ask, if those are the right dimensions, any idea from any of you when you were out there, if this structure moved to the west, or left as you face the lake, any idea how far it would have to be moved to the west to meet the

setback from the lake and the road? It doesn't seem to me, with the slant on the road, that it would take much movement to the left for them to be able to build it by permit and meet the requirements. I am looking at the drawing, Buitenwerf, which is next to last in the packet that was done by your staff.

Andres opened for public comment.

No oral public comment was given.

Written comment was received in the form of two letters of opposition from neighboring properties.

Andres closed public comment.

Johnson stated I think that drawing is the one that we didn't know if the flags were to the eaves or to the building wall, correct Buitenwerf?

Buitenwerf replied that is correct.

Grob asked does it matter if the Environmental Services actually did this measurement and established the 87 ½' to the ordinary high water mark?

Andres asked Grob to repeat the question.

Grob stated I know there were some questions about where the applicant did the measurements from. I am saying I am not so sure that I care as long as I know that the Environmental Services staff measured the current flag to be 87 ½' from the lake and the right-of-way pin to be 62'. Help me out, what is the unknown that we are concerned about that makes those dimensions not valid, Buitenwerf?

Buitenwerf responded the unknown is whether what was marked with the flags denotes the proposed exterior wall or if it would be the eaves.

Grob asked that could take 2' off of the 87 ½' and 2' off of the 62', right?

Buitenwerf replied correct.

Grob continued so the premise that structure could be moved back 10' and they would be 5' from the 100' setback requirement, and then they would be meeting the road right-of-way at 50'. My premise is that when I look at the topography map I don't see any reason why that structure couldn't be moved 20' to the left, and if you redid the measurements you could meet both the ordinary high water mark setback and the road setback. See how the road curves? Now they are proposing building it 12' from the property line. I wish some people were available. It seems to me there is no constraint to be able to move it to the left a little bit and meet those setback requirements. In fact, it looks like the edge of the water actually moves out a little bit more.

Johnson stated I think from reading the application they were going to be moving it from their primary structure. I would want it on that flat plateau, right where they were asking it to

be. If you go up into the hill it turns into more of a vegetated area as you move to the west towards the neighbors. I thought it was a spot where I would want it for myself.

Grob added I didn't think that it was that heavily vegetated 20' to the left. Farther over into the west, yes, but not the area they had it staked out. Maybe there is a drawing. I guess there is a slant to the hill, but not a lot. I guess my point would be, if we wanted to approve that spot, I would rather they meet the 100' setback and we encroach 5' into the road setback. There is a pretty good buffer of trees and vegetation to the road. I don't think there is a safety issue.

Johnson asked how would you propose to make a motion towards that?

Kovacovich stated my proposal would be to deny it. The way the application is proposed it doesn't meet setbacks. It looks like there is room to move it to meet setbacks. They are not here to explain it to us. We either table it and give them another chance next month, or just deny it. That would be my preference.

Andres added to answer Grob's question, during the lot view I did notice that there was some room to move it over as well. There is still some clearing. I agree with Kovacovich though. There are some options that they can build it by permit and meet all of the setbacks without disrupting too much of that vegetation. Again, it is hard without having any applicants here to answer any questions. I am supportive of the staff report.

Petersen asked Grob and Andres, the idea of moving this to the west 20' to meet setback, did you think that the topography was pretty much the same as where they had the building located?

Grob answered if Buitenwerf goes back to that picture, you are standing on the west looking at it, and it is in front of you. That is what the topography is there. Do you see the two flags on the right and the two flags on the left? You would be moving it towards you, and you would have to move it back to the right another 10' or so. It doesn't look to me like it is that big of a deal. You have one tree in front of you, which is not a big one. There are not a lot of other trees, and I don't think the slope is that much different.

Johnson asked were the owners there when your technicians measured that out, Buitenwerf?

Buitenwerf answered I do not remember. I can't say for sure.

Andres stated I understand meeting the setback would place the structure closer to the highway, but during the lot viewals I noticed there are many structures, including residential houses, that are much closer along that stretch of highway.

Grob said I agree with Andres. If we were going to leave it right where it is, so to speak, I would have them move it back to the 100' setback. Then if you have to give the variance from the road right-of-way there is a lot of buffer there.

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

Grob seconded the motion that passed 5 – 0.

The motion carried unanimously 5 – 0.

Findings of Fact

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

Yes () No (X)

Why or why not? The lot is 223' deep on the west side between the shoreline and road right-of-way boundary. There is thus ~73' of lot depth on the west side of the ~172' wide lot where the proposed 16' x 20' structure could be constructed/placed by permit. When a permissible option exists for a proposal, a practical difficulty in complying with the ordinance does not exist and thus a variance ought not to be granted. The lot has no wetlands that would potentially interfere with a building site. The west to east slope on the property in the area meeting setbacks is a gradual ten percent that would not preclude the placement of the proposed structure in this area.

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? While the proposed structure is reasonable to have on a riparian lot and is often seen on such, the proposed 75' OHW setback is not reasonable when the lot is 223' deep on the west side between the shoreline and road ROW setback and thus has ~73' of depth in which the proposed structure could be placed by permit. The lot is ~172' wide and 168' deep on the east lot line – again between the shoreline and north boundary of the road ROW. When a permissible option exists, allowing a 25' variance from the 100' OHW structure setback is not reasonable.

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

Yes () No (X)

Why or why not? The west lot line is 223' deep from the shoreline to the north road right-of-way boundary as shown on a certificate of survey of the lot submitted in the application. The lot is 173' wide. The lot is 168' deep on the east lot line. There are no wetlands on the lot. The lot has a gradual west-east slope in the area that meets the OHW and road ROW setbacks. There thus appears to be ample room on the lot to meet all setbacks and thus construct the proposed structure by permit. Also, in 2017, the applicants sought and were granted an administrative subdivision to convey 28.73' of the west end of the lot to the adjacent landowner to correct a boundary line encroachment so there used to be even more lot width and usable room on the west side of the lot that still has sufficient room to meet the OHW and ROW setbacks.

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

Yes (X) No ()

Why or why not? The proposed screened-in accessory structure is a type of structure often found on lakeshore properties. The proposed ordinary high water mark setback falls in line with the OHW setbacks of other structures in the locality located to the east and west of this lot as much of this area was developed prior to the ordinance. There are also structures constructed on the larger and deeper lots to the west of this lot that meet or exceed all setbacks. The locality is made up of a mixture of seasonal and year-round single-family residences on the north side of Highway 87 and undeveloped forest land on the south side of Highway 87.

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

Yes (X) No ()

Why or why not? Economics are not cited in the application as a difficulty. The applicants cite as a difficulty that trees would have to be removed and soil excavated to place the structure in a location that meets all setbacks and can thus be permitted.

Miscellaneous: Buitenwerf stated we have not received any complete applications yet for July. It is looking like we will have a handful of variance applications. We know of some that are in the process of working on, but I don't have a good idea of what the number will be since the deadline is next week. I will check in with the Coordinator's Office as to how our meeting will occur next month. For now I would anticipate it continuing in the format that we have used in May and June.

Communications:

Adjournment:

Kovacovich made the motion to adjourn.

Petersen seconded the motion.

The motion carried unanimously 5 – 0.

The meeting adjourned at 8:02 p.m.

Respectfully submitted,

Staci Lee

Recording Secretary