

HUBBARD COUNTY

Planning Commission/Board of Adjustment Meeting Minutes

6:00 p.m. on Monday, May 21, 2018

Chairman Tom Krueger opened the meeting with the following additional members present: Ken Grob, Ted VanKempen, Tim Johnson and Mark Petersen. Also present was Environmental Services Director Eric Buitenwerf and ex-officio Planning Commission member and County Board Vice-Chair Dan Stacey.

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

Planning Commission:

Approval of Minutes: April 23, 2018.

Grob made a motion to approve the minutes as presented.

VanKempen seconded the motion that carried unanimously 5 – 0.

Old Business: None.

New Business:

Final Plat Application of Plantagenet Bay Estates by Bradley Anderson: Part of Gov. Lot 4, Section 18, Township 145, Range 33, Helga Township on Lake Plantagenet, a recreational development lake. Parcels 11.18.00700 and 11.18.00710. Applicant is requesting to plat 27.2 acres into 10 residential lots.

Matt Murray, 304 3rd Street, Bemidji, MN, presented the final plat application on behalf of Bradley Anderson.

Krueger noted this has gone through the preliminary procedures and we are in the final now. That's when all the "I"s are dotted and the "T"s are crossed.

Murray said one of the biggest items is that the road has been constructed, it has been inspected and the township has already taken it over for maintenance. It's completed. The mortgage consents have been obtained. Since this application, actually, there has been a sale of lots 2 and 3 of the plat. That has been expected for several months and it just finally all came together. So lots 2 and 3 will still be in the plat, that owner will be joining in and signing the plat.

Krueger asked is there a space for them to sign then?

Murray replied yes. This plat that you have in front of you, you will see that the second signature, Asher Gabriel, is the new owner. They have already signed the mylars for the final plat. All those items have been taken care of. Their mortgage consent has already been obtained. Since this closing happened after the plat submission, the title work is

currently being updated. We should have that all ready by the time the County Board meeting comes together.

Krueger asked if there were any questions.

Krueger opened for public comment.

No public comment was given.

Grob made a motion to recommend to the Commissioners that the final plat be approved.

VanKempen seconded the motion.

The motion carried unanimously 5 – 0.

Board of Adjustment:

Approval of Minutes: April 23, 2018

VanKempen made a motion to approve the minutes as presented.

Johnson seconded the motion that carried unanimously 5 – 0.

Old Business: None.

New Business:

Variance Application 8-V-18 by Sam and Catherine Holmgren: Part of Gov. Lot 3, Section 32, Township 143, Range 32, Lakeport Township on Kabekona Lake, a recreational development lake. Parcel 19.45.01600. Applicants are requesting a variance from Section 502.2 of the Shoreland Management Ordinance for a proposed new residence to be located at less than the required 100 feet ordinary high water mark structure setback and the required 30 feet top of bluff structure setback.

Sam Holmgren, 1415 KnobHill Lane, Excelsior, MN 55331, and Dave Gapinski, Holmgren's builder, presented the variance application.

Krueger said give us a description of what you are asking for.

Holmgren stated I believe you all were out at the site, except for Stacey, and our home burned down back in January. The house that was there was built in 1969. It was a noncompliant, but legal structure. Obviously for the good of the lake, it doesn't make sense to build back on that same spot. It was hanging on a bluff. So what we are proposing is a similar size structure East/ West instead of North/South and pulling it back away from the lake as far as we can without disrupting our existing septic and also try to keep the drainage, you guys were out there, the low area behind the house we want to get as much water to go back there as possible. We feel like where we have it situated on the proposal, it's kind of the optimal spot without disrupting the existing driveway and the septic and also maintaining that we don't have to cut down any more trees, there was an existing view

there. We don't want to disrupt any more than we have to, to maintain the view that we had. So that is the essence of what we want to do. The other component is that we had an attached garage and unfortunately it all burned. I personally am more comfortable with a detached, as you can see, we have it setback as far away from the lake as we can. In our minds, this is the most logical spot for the home and it makes a lot of sense to have the garage where it is. If you look at the topography of the driveway and the drainage, that low spot that is between the drainfield and the proposed house, the way that culvert comes in, if you guys remember seeing that, you saw that there was water there. In the Spring that low spot does take in water and eventually, I believe, it all percolates down. If it got any higher, it might go down to the lake, but I have never seen that.

Krueger asked and your existing septic tank, meets the 10 foot setback?

Holmgren said it is right there I think, Tim, you looked at that tank, the edge of that tank to where that clean out is, where you saw that first white clean out, to that stoop is 10 feet. So if we need to move forward, we could, but ideally we want to back that one. Ideally in the harmony of the rules, we want to get it back as far as we can without disrupting a lot of things that are in site. That is the basis for why we have it placed where it is. I don't know if you have questions for Dave or I about it. You kind of saw the layout and I think it is kind of a good spot for a home because the topography starts to drop back off behind, and we again, want to keep it away from the lake as far as possible.

Krueger said when I was out there, I noticed that you have topography issues on both sides. You have it going down to the lake and then you got it going up to the road.

Holmgren responded yeah, it kind of drops straight down from the road, plateaus, and then straight down to the lake so the building area really isn't all that huge. And then we don't want to move laterally because we are equal distance from the neighbor's property lines on the sides. It's kind of the spot. Do you have concerns about the spot?

Krueger said let's see what some other comments or questions are.

Johnson asked the original house was pretty much straight ahead of what you are proposing, right? Or was it off, one way or the other?

Holmgren responded it was just a hair off, by only maybe 5 feet, 6 feet. And we want to take advantage of that view that was there and keep it equidistant from the neighbors. That is why we are putting it there specifically, in with the drainage, first and foremost.

Grob said you are 20 feet short of the setback from the lake, 18 feet from the bluff, if you had to move it back 20 feet, what are the difficulties or problems created, as to why you think that this is the best spot. If you had to move it back, what are the implications?

Holmgren replied I don't know if you saw that stake where we marked the high water, we marked it when we staked out the outline of the house. So it was the southwest corner, that water was up, so there is a stand of birches in there, we had a stake in there that was marked to show where the high water mark was. It was at the edge of the high water and that's only, say, 10-12 feet from that corner. But there is enough slope there, that if it did come up higher, it would go the other way. But I wouldn't want to fill it, I don't know.

Gapinski added that between that and the septic system.

Holmgren said we have a compliant septic that is operational and sound and to disturb that is not optimal.

Johnson asked the high water that you were talking, was from the drainage hole, so that is from the runoff from the county culvert, from the property across the road.

Holmgren replied they claim that there was always a culvert there, I don't know how big it was or if it was affected, but in two springs it has gotten that high. I don't know if it goes off to the west, if it gets higher, or if it was just done and that was all the water that drained in there. Obviously we're not living there so I don't know how it behaved. But, Ken, to answer your question, that is one of the reasons that moving back would be a problem.

Grob said, so septic system, and if you had to move it back, unless you moved it to the east I guess, you could have water right up to the house, is what you are saying.

Holmgren replied yes. There is potential for that. And the other house was, there were 2 steps up into the house from the garage. And this house will be, I would imagine it's a foot or 2 steps, one course. So I am not worried about the house flooding, because again, the water can only go somewhere else from there. But that was the high mark.

Peterson asked was the previous house built on foundation, or was it slab on grade?

Holmgren answered it was a crawl space, shallow foundation. There was enough room for utilities on the lake side in the crawl space and that got really skinny and narrow as you got back towards the road.

Peterson added I think I asked when I was out there, about the elevation you're thinking about setting this slab at. Do we have anything in writing here that gives an elevation, or is that still yet to be determined?

Holmgren replied it is still yet to be determined. I am thinking about a foot higher than it is, just to try and get the water that is coming down that hill in the driveway to curve between the garage and the house and get, not over the tanks of course, but between the tank and the drainfield, there is quite the area to get into that holding pond.

Peterson asked on the lake side, you are grading, at least your plan for it is to have a swill out in front of the building, and eventually that swill is going to run the water back, is that your idea there?

Holmgren replied correct, as much as we can. And then also, we had talked about a gutter system.

Grob asked you are building this on slab, right? You're not doing a crawl space?

Holmgren replied no. I am done with crawlspaces.

Peterson asked is there an alternate site for a drainfield other than the existing one on this property?

Holmgren answered that I don't know. The drainfield itself is as far from the lake as we can get. Which to me is ideal, as far as the watershed goes, protecting the lake. Since the tanks are in good shape, we're trying to preserve that. As long as it works.

Gapinski added the alternate site I would think, would be right up above where the steps go down to the dock system. There is an open area there. I think that would be an alternate site. What type of system?

Peterson commented I am talking strictly drainfield right now, I am not talking about the tanks. I was just wondering if there was any area designated on your property for an alternate site because I just never saw if there was any.

Holmgren replied I don't know if there is.

Gapinski said whoever did it last time designated one, but I don't know if that was on the record.

Grob said I know that you have reluctant space in which you said you didn't want your garage and your house because if it ever happened again, you didn't want to lose everything, but did you consider a design and a location where you would build the house and the garage, that circular driveway where you have your garage, seems like somehow you could move the house back and to the right and maybe you have to attach it to the garage. Did you look at any layouts, and if, what are the difficulties of doing that?

Gapinski answered the elevation change is probably the biggest one.

Holmgren said that slope, if you look at the topography, if you look at the survey, it drops 24 feet from the top of the driveway to where the house is. That's a slope, you guys probably had to gun it out in the van to get out of the driveway. That's a pretty steep slope. Then you are dealing with water coming in right to the back of the house. We're trying to find the space on the lot that is the best for the lake and the best for the situation without going back to where we started. Because that, obviously, is not optimal. We know that we could of proposed to build in the same envelope. It just doesn't make sense. I am on the Kabekona Lake Foundation and we're always talking about watershed issues, so I completely understand. That is our main focus of discussion, that and of course AIS, so I totally get the watershed issue and I feel like, you were talking about that alternate drainfield, having it up by the road is the best possible scenario as far as keeping the lake clean. And this space on the property, I feel like is a good spot for keeping the lake in good shape without the runoff and then secondly, getting the garage away from the lake. Garages have stuff in them, right? That is kind of the rationale.

Krueger asked Buitenwerf you had to go on site to form an opinion on a couple of items. I would like to hear what your thoughts are.

Buitenwerf said in seeing the site, there are definitely limitations to the property. I think you could, the application shows that there are plans for a garage that is able to meet all setbacks, so a different house plan could be constructed that would do an attached garage. I understand Sam's reason for not wanting to do that, but just from an Ordinance standpoint; there would be room to construct a house with a garage that would probably

meet all the setbacks. That said, having seen the site, and the fact that they are proposing to move it back from what was there, and they could legally construct that, I see that side of the coin too. I don't think environmentally, getting it back another 20 feet or so is really going to make a whales difference one way or the other. So that would be generally where I have landed in my review of it.

Krueger responded that helps.

Krueger asked for public comment.

No public comment was given.

Written correspondence was received from Lee Walter, 403 West 2nd St, Cresco, IA, in support of the variance application.

Krueger closed public comment.

Krueger added I have been starting to form an opinion on this, and Buitenwerf has helped a lot with that, because where you are planning to put it, in my opinion, is a good balance between coming back further from the lake. Then you also have the issue of the higher elevation going up the road, water flowing down your driveway, which would be kind of a mess, so I am kind of leaning towards an approval. I would like to hear other opinions.

VanKempen added I was going to make that same statement that the original home was right on the bluff and you are moving it back 18 feet. It looks like by your calculations here, your original home with the attached garage had 2,160 sq feet. The home you are proposing would have approximately 1,800 sq feet. I know there would be the separate, detached garage, but if your current home was still there, you could by permit build another accessory structure. So I don't see that as an issue. Alternative drainfields, I thought maybe to the east of where your current one would be, and also perhaps the location you had mentioned too. I think, like Krueger was saying, there is a good balance here.

Grob commented I think the proposed location is definitely a significant improvement over the previous location right on the bluff. And I think Buitenwerf's comment was pretty much my thinking, if you move that back 20 feet, you would have no additional positive impact on runoff to the lake, and in fact I could see the fact that you would be removing possibly some trees and having to do more fill when you move it back. The other thing is, I think the current stewardship of the lake, the bluff is well vegetated. Which is good practice. Every time I kept trying to think, how could you move it around, it seemed there were more negatives than positives. So I am on the side of approving it.

Krueger made a motion to approve the variance application and adopt the staff report findings of fact for questions # 4 and # 5.

VanKempen seconded the motion.

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? Because the intent of these ordinance is to improve environmentally these situations on the lake and they are moving it back an additional 18 feet from the lake which is a good improvement along with not creating new disturbances that could cause erosion.

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? I think wanting to replace a house that was burned down by vandals is definitely a reasonable use. As the ordinance is written right now, you are not permitted to put it back, you have difficulties of where to put it. I think that is where the official controls are not permitting you to do. I think it is quite reasonable for you to build a house where you are putting it.

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? I don't think that fire was created by you or a previous owner.

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 primarily of seasonal residences that are located at similar OHW and top of bluff setbacks and vary in size from being much larger than the prior and proposed house on this lot to somewhat to much smaller. The proposed house will thus fit in with and maintain the locality's character.

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

Yes (X) No ()

Why or why not? The alleged difficulty has much to do with the landowners' desired house and garage plans and the locations of these two proposed structures. Economics were not cited in the application as a difficulty.

The motion carried unanimously 5 – 0.

Miscellaneous:

Communications: Buitenwerf stated we currently have what appears to be three variance applications for you in June. The deadline is not until Tuesday the 29th so there might be some more. Of these three, these are the ones that we are currently aware of, so anything that would be in addition to that would be new that we don't have staff currently talking to anybody about so it could potentially be another oddly light mid-season agenda.

Grob stated all those good ordinance changes now allow you to be more efficient and make your decisions at your level instead of consuming the time of the variance Board. So it's a positive.

Krueger asked are building permits the same level as last year at this time?

Buitenwerf responded I haven't done an analysis, but just anecdotally, I would say we are probably even to maybe a hair below. I kept expecting the wave to hit the shore because of the late spring, and then with road restrictions being removed last week, but so far the bus hasn't showed up yet, so I'm not sure why it's a very sane pace so far, which is good.

Adjournment:

VanKempen made the motion to adjourn.

Peterson seconded the motion.

The motion carried unanimously 5 – 0.

The meeting adjourned at 6:36 p.m.

Respectfully submitted,

Staci Harvey

Recording Secretary