

HUBBARD COUNTY

Planning Commission/Board of Adjustment Meeting Minutes

6:00 p.m. on Monday, May 20, 2019

Chairman Mark Petersen opened the meeting with the following additional members present: Ken Grob, Tim Johnson, and Veronica Andres. 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: April 22, 2019

Andres made a motion to approve the minutes as presented.

Johnson seconded the motion that carried unanimously 4 – 0.

Old Business: None.

New Business: None.

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 and Jeremy Klinger, attorney for Mr. Bolton, presented the application.

Bolton said thank you for taking the time to listen to my plans for a small RV park on Long Lake. My RV park plan is allowed by Shoreland Management Ordinance. I have received one variance that allows me to create smaller site sizes, enables me to move the 8 RV sites that I am allowed to have down by the lake, up into Tier 2 with the other 6 sites. It puts the entire park into Tier 2 of my parcel and as far from the lake as possible, which is in complete harmony with the intention of the Ordinance. Last fall, my project was stopped short of being passed because the County Board wanted a grading plan and a stormwater plan designed by a civil engineer. I now have added both civil engineer plans to my project. I have satisfied my vegetative cover violation by replanting many more plants that originally requested to replant. I have also planted shrubs in a new area identified by Environmental Services that lacks an appropriate number of shrubs. I will continue to watch my new plantings and replace as necessary any plants that don't survive. My project has drawn much attention in the community. Teams have been set up to notify everyone on the lake about my RV park. Most lake residents support my RV park plans on Long Lake and agree we do have a shortage for high end RV parks in our

County. However, there is a lot of inaccurate information out there regarding my project. My RV Park is not a high density RV park. The number of sites in my park was determined by the Environmental Services using the density calculation in the Shoreland Management Ordinance. The ordinance allows me to have 8 RV sites in Tier 1, but my plan also has 14 RV sites and 3 park septic systems in Tier 2, as far from the water as possible and behind the natural protective berm that will keep the runoff from going near the lake. My RV park is not in a sensitive protected wetland. The DNR explains that Bolton Bay is Long Lake, like all other lakeshore on the lake. The DNR has also designed a new dock layout that supports the number of guests that I can have at the park while making activity safe in the bay. My primary park access is from Emerald Island Circle and it will have signage so it can be readily identified by everyone. Park guests won't be wandering down the road searching for my park; this concern from residents on the end of the road is unfounded. It is also interesting to note that not long ago, Pine Island Lodge resort was operated by these very same opponents and they had no concerns about their own resort traffic on the road at that time. Several opponents to my RV park are also claiming that Enchanted Drive cannot accommodate RV traffic; this isn't true. Enchanted Drive is built to Henrietta Township specs and I have seen RV traffic on this road. I won't be encouraging any park guests to use Enchanted, but it is not right to be worried about losing my CUP if somebody does venture out on that road. Letters sent to Environmental Services speaking out against my RV park have many claims that are simply not true. I have been blamed for every gun ever fired within earshot of Long Lake. I haven't even shot a gun in over a year, but if I wanted to, I could. It is legal to shoot a gun on my property. I have been blamed for debris landing on lake residents' shorelines. That is simply impossible; I don't put debris in the water. I have been accused of destroying all of the lily pads between the main part of the lake and my dock, I am allowed a 15 foot path through the lily pads without a permit and that is exactly what I have. Some of the letters sent to Environmental Services say that there have been loud parties from my rentals, this isn't true either. My renters have been very considerate of the neighbors. My RV park isn't going to destroy the quiet neighborhood. I haven't, nor will I be, targeting young parties. Historically my guests have come to Long Lake primarily to enjoy the lake, visit retailers in Park Rapids area, and visit Itasca State Park. I expect this trend to continue. Neighbors to my property can be assured that park quiet hours will be enforced. Again, the RV park I have planned is allowed by Shoreland Management Ordinance. It saddens me to listen to all of the opposition and unfounded claims. I realize people don't like change, but the fact is things are always changing. Once my park is operating, people will realize they were making a big deal out of something that impacts them very little, if at all.

Petersen asked Bolton give me an idea; highlight the differences you are bringing us in this application this month as opposed to the one that you brought last fall that was ultimately denied by the County Commissioners. Just summarize for us.

Bolton replied there are actually quite a few changes. I have reworked all of the diagrams, a lot of the verbiage, I have changed some time frames, added a lot of outside engineered plans for the project as requested. The conditional use permit is completely different than it was last fall.

Petersen said my next question is on your outstanding violation of the shoreland area, what is your feeling on whether you have met the requirements? I am going to be blunt with you here; it is my understanding from Environmental Services that you haven't satisfied the requirements. I am trying to get this violation cleared up one way or another.

Bolton replied I just received an email this afternoon from Buitenwerf and I have satisfied all of the violations and now we are going to just be on a watch, watching all the shrubs and make sure that they survive. We have gone ahead and planted more than Buitenwerf had asked for in hopes that with the number we would lose, it would still be more than what they have asked for. But, I did get the email today from Buitenwerf.

Grob clarified the email that the current planting is sufficient?

Bolton answered yes.

Grob continued we were handed a document a few minutes ago that was a new violation requesting an after-the-fact variance. Can you comment on that?

Bolton explained back in 2014 there were some trees and dead trees that were pulled out of the area. That area had gotten mowed along with other parts of my property. It hasn't changed since that timeframe. When we had a person out on site last Wednesday, he noticed that site. Buitenwerf and I had a quick meeting to figure out what needed to be done as far as replanting. We scrambled this weekend and planted more than Buitenwerf had asked for and he gave me an email this morning saying that too was satisfactory for what he was looking for and now we will be on a watch basis on those plants to make sure that they survive. We will be watching them for the next two years.

Grob asked Buitenwerf can you comment? What I am hearing is that he is saying he has no outstanding violation actions.

Buitenwerf responded there was a new violation that was identified by staff late last week. That was communicated to Mr. Bolton and he has taken care of planting the required vegetation in the newly affected area. That planting, as well as the planting that was required in the original shore impact zone violation, have been planted to what the department specified. As Mr. Bolton also indicated, we will be monitoring those areas to make sure that there is adequate survivorship and that those plantings get properly established.

Grob said we were also handed a completely new grading plan that shows elimination of the third drainfield and a much different grading plan with no indication of what the volume of work or whether there is any transport of fill. Can you comment on that? It leaves us hanging because it was a key part of my analysis, which is now void based on what you turned in. Why did you change things since our viewal?

Bolton replied I am not sure which plan you are looking at. Is that the most current one that was submitted?

Buitenwerf stated I can explain what Grob is referencing. That was an initial plan that was submitted in draft form to the department and then the application itself contains a

different layout in regard to the location of the east approach onto Enchanted Drive. The location that we viewed during the lot viewal on Thursday, where the approach has been started in terms of construction; that location matches what was in this original draft plan and that was the reason for providing the Commission with a copy of that, so when I spoke with Mr. Bolton at the lot viewal Thursday and asked if that was the location that he intends for that approach, he indicated that it was. He indicated that it was and that was the reason for providing you with that original plan.

Grob said so everything else that I see on there with two drainfields and significantly different elevations for all 14 sites, that is not being re proposed? Only the access point?

Buitenwerf replied it is something that warrants asking the question of exactly what the plan is so that you can have clear information as to what exactly is going to be involved in terms of grading.

Grob stated what I had in the application was this, that is what we reviewed as the basis for the 4,900 cubic yards. Is that the plan?

Bolton agreed.

Grob continued that is the plan modified by the fact that instead of curling down, you are coming straight off?

Bolton said it is down a little bit. It is basically, it looks like about 100' off. Where that driveway is, it should be 100' north of there. Nothing else really changes, the drainfields, the septic tanks, they wouldn't be compacted by that. We could put the drive out where that is, however it would require taking out a bunch of trees.

Grob added I am trying to understand what I am assessing, and it is this plan, altered for direct access here? Is that significant movement?

Bolton said no, it will be 4,900 yards of dirt moved on site. There won't be any new dirt brought in with the exception being for the top of the driveway, which would be like class 5 or crushed concrete or crushed asphalt. It is basically exactly what you have been researching.

Grob stated I am a little bit concerned. All of the elevations had significantly changed. It is this plan?

Bolton agreed.

Petersen asked Buitenwerf is this plan the one that we received tonight? Is this what you handed me tonight right before the meeting started, with the drive coming straight out? I am just trying to get clarity here on what he is doing. Are we working off this now or the one that Grob was showing where it curled?

Buitenwerf responded that is the question to get clarification on. The curved approach to Enchanted Drive is what was included in the application. When we visited the site last Thursday for the lot viewal, the location of the approach that was started did not match that curved location.

Petersen clarified this does?

Buitenwerf agreed. That prior plan that had the straight approach that matches the location of that constructed approach. That was provided to you so that you would have it for comparison purposes. Also, in speaking with the civil engineer that did both plans, he gave an estimate of around 8,500 cubic yards of material being involved in the straight road option, that being a fair amount larger than the 4,900 cubic yards for the curved approach on Enchanted Drive. That was my reason for providing the Commission with that information so that you could then confirm with Mr. Bolton exactly which of the two he intends to construct.

Bolton replied I will be going with a little combination of both, it is not exactly straight out, but it is not going to be the one that LandTeam put together and have the road built way up. An enormous amount of dirt had to be brought in.

Petersen replied what I am trying to get here, is to get you pinned down on one.

Bolton answered go with the one that was in the CUP plan, I think basically what Buitenwerf showed you tonight in that diagram is kind of the way the road looks like with relation to the walk through on Thursday.

Petersen continued if I understand correctly, the road exit that you have started there does not match the curved plan?

Bolton said it is about 80'-100' off.

Petersen added you want to stay with that exit that you have started, so now that puts me looking at this one.

Bolton replied you can kind of say that, but that road there is built up so that it is coming off straight, where I am not going to have it built up. For all practical purposes, just go with the plan that was provided in the CUP plan. We can make a modification to where the driveway enters Enchanted.

Petersen stated the difference between the amounts of yardage being moved around; I think that is relevant to what we need to know. That is why I am trying to pin you down on one or the other, so I can get to what kind of yardage we are looking at here. It sounds to me, Buitenwerf, like the straight one here that was provided tonight is the one that most matches that existing exit that is built there?

Buitenwerf answered as far as the approach location, yes.

Petersen continued then that would change the yardages that we were going off of before with that curved drawing, correct? Potentially.

Buitenwerf replied I would imagine that it would.

Petersen asked Mr. Bolton with this drawing, which is what I am referring to as my newest one, can the engineer give us a calculation on what the yardage is now that we are talking about moving, if we are going to go with this?

Bolton responded it is probably easier for me to just go ahead and move the drive to where the curved one is and go with that. If that is an issue, I can certainly do that.

Grob explained the issue is how much does it alter the dirt movement plan?

Bolton replied it is not going to alter it much at all.

Grob clarified you are sticking to the 4,900 cubic yards and no truck loads of dirt for fill.

Bolton replied correct.

Discussion ensued about the difference between plans.

Bolton stated LandTeam had made some changes also to the heights of some of the lots too and that is why there is less dirt being moved and less dirt requested to be brought in.

Grob clarified in the current plan?

Bolton said yes in the latest plan.

Petersen added what I am getting at is, I don't want to make these calculations, I want them to be provided for me. I am not able to calculate them.

Bolton answered I would go with the 4,900 cubic yards. That would be the most accurate.

Petersen asked Buitenwerf on the moving of dirt that he would do out there, whatever it is, there is a permit required, is that through the Minnesota Department of Health?

Buitenwerf replied the permit would be a non point source discharge elimination system permit through the Pollution Control Agency.

Petersen asked Bolton have you looked into that permit?

Bolton responded the permit I have got is the SWPPP permit and I have already secured that for the stormwater.

Petersen clarified in that permit that you had to do there, is there a yardage that they are asking for there?

Bolton said no, they are more asking what size of an area is going to be landscaped. They are not concerned with how much but how big of an area is getting graded.

Johnson said I can't remember from the last one or not, are you the one doing the excavating yourself?

Bolton answered I am going to be doing a lot of it; I am going to be working with Sandquist Construction to do it. They are familiar with projects this size and they have the equipment for doing this kind of project.

Johnson continued so you will be doing it together with them in constructing the sites and then finishing them?

Bolton agreed.

Johnson continued do you have a timeline for that?

Bolton replied it is going to be hard to say because I understand that there are a lot of different things when you are putting it in for the Minnesota Department of Health. You have to meet their timeframes for when they can come out and inspect. There are different things that have to take place at certain times. It will be based on that, but it shouldn't take that long to do it.

Johnson explained what I am getting around to is how long would open excavation be on that hillside?

Bolton answered probably 30 days; 30-45 days just depending on whether everything falls into place. Just like with building a new home, you have to get a certain amount done, then the electricians come in and then the plumbers come in. It will be somewhat similar with this project, but it is not that big of a project so it shouldn't take that long. I wouldn't be able to have it open yet in 2019. It would be for next year.

Andres asked do you have a post-construction revegetation plan for this project area, because I haven't seen anything like that.

Bolton responded you can look at the SWPPP and it shows all of the revegetating. Outside of that, I clearly mark in my 40' x 60' sites I will have the area 15' x 40' for the camper pads and everything else will be grass. Basically everything will be brought back to grass just as quickly as possible. Does that answer your question?

Andres agreed.

Grob asked in your write up, you indicate that you have not cycled back through the Minnesota Department of Health. Assuming the changes you have made from the review that they did back last summer hasn't changed anything, is there any reason why you didn't ask them to come and look at your new plan?

Bolton replied because the plan itself hasn't changed a whole lot. I have talked with them and they do know that I am trying for it again. They just have to have the footprint; they have to know that we have an RV park plan, and that you have to go through the Planning Commission and the County Board.

Grob said it is appropriate to have a condition on anything that we do, that you would get Department of Health approval.

Bolton replied definitely.

Grob continued I think there was also a request about having a landscaping/vegetation plan done by a professional. All I have seen are sketches of it. It would seem to me that would also be a condition that you get a professional plan, especially for that whole hillside that you are peeling off against the neighbor to the north. You are peeling off about 6-8 feet of dirt. What is your setback?

Bolton said to the north, 20 feet.

Grob continued it is 20 feet to the property line. Over 20 feet you are dropping about 6-8 feet, if I look at the topographic maps that you have. That is going to be a fairly steep bank.

Bolton replied that will be regrassed. I will try to leave the trees and whatever isn't will be grass.

Grob clarified the point I am getting at is, I think Environmental Services has indicated that they would like you to have a professional landscaping plan for that, as far as what plantings would be the best to control erosion, because that could be a very serious erosion area if water comes down it. That would probably be a condition that I would want to think about. I have one other question for you. I am very familiar with the DNR's plan for the bay, in terms of not being able to moor any watercraft along the dock out to the angle on it where you have the mooring places, and no beaching of any watercraft on the land around it. It is all laid out on that diagram, yet you indicate in your write-up that people who might want to access your swimming raft are going to use kayaks and canoes and paddleboards, etc. Where are you going to moor those?

Bolton answered you can access the kayak and paddleboards from the dock. I have done it myself.

Grob asked where will those people store those when they come in? Will they come up to the beach and disrupt the beach area? Where will they store them, in one of the mooring spots or along side of the dock?

Bolton replied usually you just grab it and carry it up and take it with. I do have canoes. Mine are stored up the beach a ways. Not in the sandy area, it is stored on the grass.

Grob continued that means that they would come up to the shore to get out of it?

Bolton stated not up to the shore, up to the dock. Now we will have more than enough dock.

Grob explained I am trying to make sure that you understand that the DNR plan says no mooring and boat traffic in that whole entire shoreline and along the whole extension of the dock. I want you to understand that because that is going to be a condition.

Bolton said it is easy enough to enter a kayak or a paddleboard right from the dock, I have done that.

Grob said I am more concerned about beaching them on the dock, and then you are doing just what we don't want, that is, disrupting the in-water vegetation and the shoreline area.

Petersen asked for public comment.

Clifford Sweeney, 17517 County 107, Park Rapids, MN, stated my wife and I live full-time in that area. I don't expect that thing to be drawn to scale, but I have sat here and heard

that 25' between sites 7 and 13 for bringing vehicles in, and I have heard 20' between the sites and the property line. The bathhouse is 10' from our property line. The other thing is, this is bigger than Chris Bolton and the neighbors in that neighborhood that are going to be disrupted. You are going to be affecting all of Hubbard County, Park Rapids area. If you approve this, you are going to open up a can of worms that you aren't going to be able to get the cover back on. I don't really have anything else to say except, like a lot of other people, I strongly disapprove of it.

Jim Seifert, 17723 Enchanted Drive, Park Rapids, MN, stated here we are again. I really debated whether I should stand up and say anything because the cynic in me wants to say that you all have already made your decision and this meeting is just a formality. I really hope that is not the case. Since day one last fall, my neighbors and I and over 150 people, many of them permanent residents from all over the county, that you heard from last fall and again this spring have made it clear. This is not about not wanting progress or obstructing a good commercial enterprise from doing business, what this is about is that the facts presented to you don't support granting a CUP for this specific purpose on this specific property. The applicant has provided engineered plans; his own plans verify what the Commissioners were afraid of last fall; the amount of dirt moved and the erosion potential. Just listening to the comments so far this evening and the questions that you have, we still don't know exactly what the plan is. The plan is changing on the fly and you are getting new updated engineering plans right before the meeting. We were unsure of that as well, so we hired our own engineering firm. You have a copy of that report. Four pages of questions; they can't figure out what is going on either. I think you have a really difficult task, trying to grant something where you really don't know what you are granting, what is going to happen to this land. The other problem that we have is that, from my perspective, we don't have a good idea of what is actually going to happen versus what is said is going to happen. We have had violations that have been open since 2013. We gave you a real clear timeline of how those violations happened and how they were never remediated. Now we have another violation that was discovered on the walk through. If I were opening an RV park, I would make darn sure that my property was in compliance before I invited the entire Planning Commission out to walk through it. The remediation for that was just planting some trees. I live about ½ a mile down the shoreline. My property has been there since 1934. We have a lot of mature trees within the shore impact zone. What I heard tonight was that I can just cut them all down. Cut every one of them down, grind out the stumps and then go to Buitenwerf and say "Hey, sorry. How about I just plant some new saplings?" Is that the objective; is that the purpose of the Ordinance? My concern is that we have had violation after violation after violation, both on land and in the water. We have a plan that is constantly being modified, updated, changed and pretty much whatever. If you say something he says sure, I will change my route. Mr. Bolton said that the water abutting his land isn't wetland. That is a zoning. So let's define an environmental piece of water versus a zoning. Let's look at what is happening from an environmental perspective versus a zoning perspective. If you look at your own Ordinance, you look at Section 1102 or 101.1. It says very clearly, when you are evaluating a CUP or a PUD, you have to look at not majorly changing the topography of the land. That is a non starter in this case. You are talking 4,900 or maybe 5,400 cubic yards of dirt.

Grob asked you said you have an engineering plan and they can't figure this out. What is it that they can't figure out that I can see on this drawing? What is it that they don't know? These are laid out, there are dimensions, there are profiles.

Seifert answered in the comment letter you received a four page letter from Widseth Smith Nolting, which is one of the largest engineering firms that we have got in the State.

Grob continued what is it that they say they can't figure out?

Seifert replied the first issue that they have is that every one of these slopes is over 3 to 1. You have very steep slopes and the grading plan doesn't show, I am not a civil engineer, but my son actually is an engineer so I asked him, and there is no buttressing. You either have to have a terrace or buttressing or piles or something to hold that dirt in or you have to spread that out over a long distance. The grading plan that they have shows the grading but it doesn't show that it will structurally hold up to those roads. The other big problem that they had was that the road width. You were all out there last week; you parked on the road going to his house. The road going to his house is twice as wide as the road that he is going to build. You drove down Enchanted Drive, you saw my RV. There is no way that I could get my RV into or out of that spot. You couldn't get a 35' 5th wheel, articulated 5th wheel with a pickup truck in or out of those spots given the terms that you have. You will receive; I actually had the engineers do a turning movement study on all of the access roads. Our engineers also called the Park Rapids Fire Department and asked what they thought and they said, "That's fine, but we can't get our apparatus into that property so if there is a fire, we will send in the brush truck."

James Peters, attorney representing landowners, stated we are here asking the conditional use permit be denied. I submitted a letter on May 14th and I won't repeat that. I think the key part of it is that there is a case from about two years ago where there was a shooting range proposed. There is a noise issue there, and the project said that they meet all the MPCA noise standards; therefore, you must approve the project. The neighbors said no, we have been out there, we have heard and it is going to be worse than that even if they meet the MPCA standards, it is still going to be a problem. Chisago County denied the CUP because of the neighbors' concerns about the noise and upheld that. This technical compliance with an ordinance standard is not enough. As you go through your findings of fact, you are going to have to do analysis. We take the roads for example. We know that from the Widseth report that there is a problem with the road. You have been out there. With the size of vehicles, not to mention emergency vehicles, it is not going to be a good situation. That is finding number six on roads and I don't see how you can possibly find in favor of the project on that one. Number three on the soils, how do you find that to be appropriate when you have such mishmash here? I think the biggest thing that you have to consider is that you don't have accountability. You don't have a plan that you can hold and Buitenwerf can come back on in a year and say, "Did you follow this?" You are not going to have that. You are not going to have enforcement authority, so when you have a problem with the soils, and again the Widseth report talks about that and support the concerns. That is why on finding number three you can't approve this. Finding number one on the public welfare, the existing violations, the current violations, the efforts to cure those things; those all support a denial. I think as you go

through this there is substantial amount of evidence to support denying this particular project on this particular location. It just doesn't fit. We ask that you please deny that.

Bruce Johnson, 17413 Enchanted Drive, Park Rapids, MN, stated I would like to pick up a little bit on the inconsistencies. Bolton has provided you a map, colored map, with his sites on it. But let's just leave this one up. This one has a scale on it. The map is supposed to be showing a road that is 200' long. Please look at the sites. 40', 40', 40', 40', that is 80' and 80' is 160'. Where is the 200' road? It is not there. Look at this please and check the scale with some calipers. That bathhouse is 60' off the back property line. This has got a scale on it. Bolton's doesn't have a scale on it. The one that Bolton has is colored and it says that it is going to be 10' off the property line and the back of the sites are going to be 20', but on his the back of the sites are closer than the bathhouse. Inconsistencies. What is what? What are we looking at here? The other thing that I would like to dwell on just a minute is how ironic it is that the vegetation has been completely destroyed from the muck that is in the bay. Interestingly enough my mother used to live near Centennial Lakes in South Minneapolis. A realtor there developed some of the most expensive property in the south metro area. If you are looking out over your deck, you are looking at native vegetation. Grasses, sedges, flowers, a walking path, shrubs, trees, and when you get down to the shoreline, there is emergent vegetation, cattails and lily pads that they have put in there. Ironic that the same thing that people are trying to look for in the city, we already have and it has been destroyed. It is not lost on me that Randy Nehring, across the lake, went through at least five different planning of boards and had a complete restoration of vegetation done on his property. This is an example of what can be done. That was something that the lake owners were very happy about. These 14 sites are going to be void of vegetation. By the time you get the infrastructure in, the electric, the water, the sewer, you do the terracing; there will not be one site that is even close to 2,400 sq. ft. It is impossible. This will be void of vegetation and all of those sites; the most they could be would be 1,800 sq. ft. of usable property. In summary I would just like to say, in my opinion, Bolton is trying to take a square peg and knock it into a round hole and he is asking you for the hammer.

Jeremy Klinger, Bolton's attorney, stated I just want to say a couple of things. The purpose of this meeting today is to take Mr. Bolton's application that he has submitted and determine based upon what he has submitted, whether or not he has met the requirements of a conditional use permit consistent with what the Ordinance requires and also consistent with whatever appropriate conditions the Board wishes to place on him based upon what he has submitted. We are not here for a trial, we are not here to nitpick his plan, we are not here to take Widseth, Smith and Nolting's plans and compare them against his plans. Nobody here has the opportunity to cross examine Widseth, Smith, Nolting and compare it to Mr. Bolton's plans. It is not a trial. It is simply looking at Mr. Bolton's application and determining whether or not he has submitted the appropriate materials to have it approved consistent with the Ordinance's language and whether or not any conditions are appropriate for his permit based on the Ordinance itself. That is pretty much what I want to say today. I would say that Mr. Bolton has submitted enough material to pass the conditional use permit application process with any reasonable conditions that the Board wishes to place on it.

Butch DeLaHunt, Park Rapids Area Lakes Chamber of Commerce, I know we were looking at a plan and you have a very difficult decision ahead of you. I think the Shoreland Ordinance speaks very well to what is proposed here. Last time I was here everybody said it was “chicken scratch” and now it looks like you have a pretty good design that you may have to ask some additional questions, but it seems to be pretty valid and to the point and addresses some of the concerns that you expressed before. Last time I was here, I spoke to you about some of the economic and tourism things. I work at the Chamber of Commerce, and I can tell you there is a shortage of seasonal and weekly campgrounds in the Park Rapids Lakes area. You can come into the Chamber and sit there and see as we field these questions. We do not have places for them to go. Seasonal campgrounds are full and weekly campgrounds are limited. 2018 was the second highest year in RV shipments in the Country at 483,000 units, second to only 2017 that was 504,000 RVs that were shipped. That is almost a million RVs across the Country. Clearly there is demand for RV camping across the country, including Minnesota and the Park Rapids Lakes Area. Shorter trips, close to home. That is what people are doing. They are buying a camper, experimenting going to different communities to find out what they can experience in different communities. I am here to tell you today that when they do come to our area and they have an opportunity to stay for a night or a week or for a season, they are making a conscious decision as to whether Park Rapids, MN is the place that they want to buy a cabin, move here, and retire. It is very important for you to consider some of these economic facts. As the last time, I stated there are a good number of seasonal rental properties that are full. There are waiting lists 20 deep. New campgrounds are filling out rapidly. Call around, do your homework. It is easy. There is a shortage of weekly, nightly campgrounds. There is no question. As stated, shorter trips closer to home. These are the people who are coming here. I do want to just also say one other thing about that, they do shop here. When a lot of our resorts went from resorts to PUDs and people have economically told us, time and time again, that because these resorts have converted to PUDs, planned unit developments, we don't have people coming here and turning over the economy every single week. They are coming for the season, but they are not overturning new experiences by new people every single week. That equates to people shopping downtown, coming in here and spending money which is very vital to our survival as a tourism organization and a community. I also wanted to just bring up one other point, I have watched a lot of your decisions here from the planning side and many of the conditional use permits have been providing conditions based on VRBO and Airbnb. To my knowledge, there is no statute, there is no ordinance or policy in Hubbard County with regard to permitting use or prohibiting use of VRBOs as a condition of the Planning Commission. The reality is that VRBOs are here to stay and I just want to say if the Planning Commission wants to start placing conditions on conditional use permits, they should probably address it to the Hubbard County Commissioners, seek public input, and find out if VRBOs are the right thing to condition in the Planning Commission.

Jim Cashman, 17624 Emerald Island Trail, Park Rapids, MN, stated I attended the walk through last Thursday morning. I was astounded by how much of the Tier 2 will be wiped clean of any trees. Nothing will be left due to the placement of the roads, RV sites, and the steep slope down to the lake. Many of the RV sites will need to have 3'-5' retaining walls to create a camping surface without the stormwater eroding the steep hill and

saturating the southwest drainfield. The proposed parking area is planned in the low spot which will flood during heavy rains. Mr. Bolton mentioned in the walk through that the depth of the lake bottom at the end of his dock is five feet. One could clearly see that the water depth is about a foot on the sides of the dock. But, the depth is five feet, which I contest; the only reason would be that he illegally dug a channel with repeated boat travel and a hydroblaster. Do you really want to reward illegal activity? In one of my letters I submitted a photo of the swamp from six years ago showing a dense mat of lily pads in the area where his dock sits. Where will 14 campers dock their 1-2 boats during the day while back at camp, or their canoes and kayaks? The proposed dock extension is ridiculous and will create a much larger channel and dead zone. After the walk through; Buitenwerf and the members of the Board drove down Emerald Island Circle and through our posted easement where the legal road ends. Did you notice how the natural flow of the road leads right through my mother's property? There are 29 homes/cabins on the island with the majority of the roads being very narrow with sharp turns. Most of the roads are private and maintained by us and our neighbors. We have left the easement open to allow the Township to use our turnaround for grader and snowplows. Through the years, the school bus has used our turnaround, the letter carrier uses it. It was also open so that fire trucks and life safety can access the private roads in case of an emergency. If the RV project is passed, my family will be revoking the easement with the Township and putting up a gate at the end of Emerald Island Circle due to safety and security issues. How will an RV pulling a trailer turn around in a 48' easement? This will create a huge health and safety issue for all of us on the island. Russ Johnsrud from Henrietta Township told me over the phone two weeks ago that they need at least 80' to turn a grader around and that he has no idea how they would be able to plow the road. If a biker, ATV, or walker attempts to cross our land, we will be calling the sheriff, which is a total waste of taxpayer dollars. Russ also told me that Emerald Island Circle is his worst Township road. The width varies as you travel down and it does not have any records as to how the road was built many years ago. As far as the swimming raft is concerned, having a raft hundreds of yards from your property is crazy.

Kerry Cashman, 17681 Emerald Island Trail, Park Rapids, MN, stated I want to first address the idea of getting in and out of a kayak, canoe, or a paddleboard from a dock. I am an athlete, I am a swimmer and I cannot get in and out of a canoe from a dock easily and I definitely would not do it with mud and lily pads right next to it, taking the risk of falling into the mud. I also cannot lift that boat up from the water on my own. I don't believe that people will be doing that. They will be going to shore. There is absolutely no way that the average person is going to pull their kayak or their canoe, even their paddleboard, up onto the dock from the water. They will be pulling it, illegally, onto the shore.

Paul Walker, 17459 Enchanted Drive, Park Rapids, MN, stated the area referred to as Bolton Bay has always been a lily pad area and we would go and hunt turtles there. The one thing that you didn't want to do was to fall out of the boat because it is very shallow, but it is mucky. What I am concerned about is when you have a significant number of people that are going to be coming to an RV park and they are going to want to recreate onto the lake. One of the things that we noticed last year that started, we would see people on pontoon boats partying just outside of that bay, because it is beautiful water

there, whereas inside the bay, it is really not very pleasant. My concern of course is that what we are going to see is a lot of people coming out on the lake with no place to go and potentially going on private property or just partying out on the lake.

Darrin Hoverson, MN Department of Natural Resources, stated I don't have any other specific comments than those that were in my letter that I provided earlier, but as I have told you I am available for any comments that you may have in respect to the DNR or other considerations on the project. In the letter, very similar to the prior letter, associated with the docking and mooring plan recommendation from the DNR is generally what is there as well as some vegetation management compliance with shore impact zone protection. If there are any questions, I am here as well for you.

Johnson asked I had asked you on the lot viewal, if somebody couldn't be bringing a boat into that bay, the applicant has a right to build a boardwalk 4' wide all the way out to the lake through that bay?

Hoverson replied according to DNR regulations any riparian property has a right to access out to a navigable depth. We have normally said that is generally four feet of water. The allowance that Bolton was talking about earlier, a 15' path through vegetation is common either without a permit or with a permit depending on the type of vegetation, but a permanent dock is treated no differently than a floating dock or a dock that is moved in and out of the lake. Construction of a permanent dock is going to be very difficult in a situation like this, speculating deep muck. I can say, if you are familiar with Bar Harbor on Gull Lake, they have a massive permitted structure out there in a protected bay. But those types of structures are built with agitators, pole pilings on barges normally, so you can get above it. So to build a permitted dock, a more navigable mooring depth than even what is there, normally is pretty difficult in a shallow condition like that.

Johnson clarified, but it is allowed?

Hoverson responded it may be allowed. DNR is a recommendation; that is what we are making to you. The applicant could come back with something else and you could renew it, but a permanent dock, even as proposed is allowed. Realistically, up to 8', I believe you said 4', DNR regulations are 8'. But it is rarely ever done.

Johnson continued my next question was, if this was to continue to be a private residence and he had family, friends, and the adjoining property; would there be a limit to the amount of fishing boats, ski boats, and jet skis he could have?

Hoverson replied there would not be. The limit of allowable mooring spaces normally associated with a conditional use of some matter, any commercial use where you have an ability to restrict it, that is normally done through the local planning and zoning. DNR does not have that unless you propose a marina, which isn't allowed in Hubbard County, and there you would still have to have more than 7 slips that you are renting out.

Grob stated your letter is a recommendation, I assume we could in fact make that letter an official condition and your recommendations in it an official condition for the CUP.

Hoverson responded we would hope that you do so. The intention is that it is something that you can use as part of your planning. It is associated with a consolidated location for the mooring facility with the number of allowable units and the least impact. There is clearly an impact in this area because of the shallow nature of the bay.

Grob said since that is in water, it is under the authority of the DNR waters. Would DNR Waters then be responsible for enforcement or dealing with any kind of violation that is reported?

Hoverson replied we would not be. The conditional use permit would be conditional of that recommendation. The mooring facility and dock access is compliant with State regulations; we do not have an ability to restrict mooring. If he put mooring adjacent to where we recommended mooring, we would not have ability to enforce that. That would normally be a condition of the CUP and could be enforceable in the manner of how enforcement would be recommended there.

Grob clarified any mooring violations would fall under the Environmental Services, the County, but any non adherence to the no-wake, to the 15' wide path, buoy placement; all that is Waters. You would be responsible for enforcing that.

Hoverson answered we would not be. These are again, recommendations from the DNR to include as conditions in your CUP. A no wake ordinance is normally only authorized by the Sheriff through ordinance. For example, Lester Lake and LaSalle Lake are the two ordinance water restrictions in the County right now where it is lake wide. You removed the Lower Crow Wing ordinance a couple of years ago. Those water use ordinances are administered by the County Government and only through the Sheriff's Office. If there was a no wake ordinance, it would be solely a recommendation from the DNR and a condition of the permit that would be enforceable as that. The drastic cases, you revoke their CUP, but normally there is a corrective action or manner to address those issues in the CUP, but buoys, mooring, docking, all of that is a recommendation, DNR does not have enforcement allowances. If someone is in there with a blower again, moving sediment, clearly that is a violation. If they are controlling aquatic plant vegetation without a permit where a permit would be needed, then we would come in and enforce that as well. If activities are occurring where there is potential safety concerns, a conservation officer may come out there, but often times that gets transferred back over to the Sheriff's Office for enforcement. They may go out and investigate, but it is often the Sheriff's Office that would follow up on those types of issues.

Grob said no wake would be Sheriff. Only vegetation removal or safety issues would be covered by DNR Waters.

Hoverson replied yes. As far as the no wake, the Sheriff administers an ordinance. If you as a Board used the Sheriff's Office to enforce the CUP, that could be a manner when they are out there to intervene and address the enforcement as an administrative item, but generally, without the ordinance, this is a conditional use permit condition violation and how that would be addressed.

Johnson said could we add a condition of a game camera on floats in the harbor?

Hoverson answered you have wide discretion on conditions. You want to be reasonable so that it is something that you can go back and enforce. You have a line of information so that if there is enforcement action, your County Attorney is able to address it appropriately. Word of mouth, I can tell you that we hear of violations that we can't do much with. We do need to document if they occur, there has to be a line of evidence to support that violation or it is really difficult.

Grob stated the point is, if we establish conditions of no wake and buoys, any violation of that is a violation of the conditions of the conditional use permit and would be handled like any other violation of the requirements of the conditional use permit.

Hoverson replied correct.

Petersen asked I noticed on the minutes from last fall, at one point you were speaking about the threshold for mandatory environmental assessment worksheets, or environmental impact statements and it seemed to me that you were saying there that this property does not meet that threshold of requiring either of those? Is that the case?

Hoverson said as I understand it, I believe that it does not. But Hubbard County is the responsible government unit to determine if an EAW is required or if any EIS is required. Similarly, you folks have reviewed, at least some of you have reviewed the EAW process or have it in front of you, but the responsible government unit would take that and if they have questions you would go to the Environmental Quality Board for direction, but in the case here, it clearly didn't meet the number of unit thresholds. I think it was 25 on sensitive shorelines that had to be specific. There were 4 or 5 specific sensitive designations that weren't here and then and or over 50. Buitenwerf and I reviewed that, normally your administrator would review it and say it is clearly not or it is.

Andres clarified the two violations that Mr. Bolton had back in 2013 and 2018 have both been satisfied and are currently satisfied, correct?

Hoverson replied yes, the DNR public water violations and the aquatic plant management violations have been essentially found guilty and Mr. Bolton has paid his fees and there is no additional follow up from the DNR.

Molly Sebold, 17648 Emerald Island Trail, Park Rapids, MN, stated I have listened to the comments here and have really been astounded by the depth of the facts that people are bringing to the table. This just keeps moving and I guess I don't understand it. Have all of his violations been cleared? His first violation was in 2013. It was cleared today. When they are cleared, as someone very eloquently pointed out, you can't get that tree back. You can't get the shoreline back. You pay a couple hundred bucks? So you want to give a permit to somebody who had all those violations and a current violation during the application process. It just doesn't make any sense at all. We are all in favor of growth here. Growth helps us all. We shop in town and I have been around Park Rapids over 50 years. We go to town, we go out to dinner, and we bike. We employ all local people. We are in this. We pay half the taxes of the area. It is important. The two other RV parks that we can see near us, they both have wide paved roads. The roads are flat and they are relatively straight. They are not like these roads and that makes a big difference.

Todd Paulowski, 17555 County 107, Park Rapids, MN, stated I am here for some clarification. It is my understanding that this project has been allowed up to 8 boat slips. Now I am hearing things about boat docks, moorings, and I think there was another term. What is the difference here between boat docks, boat slips, and moorings?

Grob answered a boat slip is a location where you can moor a watercraft.

Paulowski continued in this case, if there are 8 boat slips, how many boats can be moored in one boat slip?

Grob replied one.

Paulowski added if canoes, boats, and kayaks are pulled up on the shoreline, because there are 14 campsites and 8 boat slips, what are the consequences if the boats, kayaks, and canoes are pulled up on the shoreline?

Grob stated the DNR recommendation and my expectation of a condition is that you cannot moor or beach any watercraft on the shoreline. If you look at the drawing the DNR did, it identified an entire area. Pulling a canoe or a kayak up on the shore and letting it sit there would not be allowable.

Paulowski asked what is the consequence if it happens?

Grob answered if somebody reports it, it is a violation of a condition and Environmental Services would have to deal with them.

Paulowski continued I see a potential problem with 14 campsites and 8 boat slips for boats, kayaks, and canoes being pulled up on shore. I understand that you are saying it is illegal and it can't happen. So I guess, we report it to Environmental Services and they deal with it?

Eric Haugland, 17676 Emerald Island Circle, Park Rapids, MN, said I grew up on Pine Island. My concern is the fertility of the swamp. I attended the walk through at the Bolton property on April 18th and I heard Mr. Bolton say, and again today, that the bay is not listed as a sensitive area. That is technically true, as it is a legal term. Long Lake is classified as a recreational lake for the whole lake and to declare areas as endangered or threatened would require zoning. That is a complex process. The DNR has established sensitive lakeshores drawn out by a modeling tool based on attributes that the areas of Long Lake are thought to have. This shows the DNR model, sensitive lake shores with Pine Island and the bay and the lakeshore circled. In 1977, while I was a junior in high school, I was part of a research project on the importance of the Pine Island swamp for a biology class. We had 20 kids come out twice a month for 9 weeks and we did water tests and inventories. Our teacher, Don Schlatman, thought the swamp was a sensitive area way back then. As we used the lakes and the gulch of the Paul Bunyan State Forest as the baseline. We found that the swamp was in good shape back then. When I was growing up, there once were lady slippers growing along the swamp's edge and hundreds of painted turtles. We need to protect what we have so we don't lose anything more. I regularly canoe three seasons of the year in the swamp. Now before the aquatic plants started growing rapidly, it is ideal time to paddle. By August, it has been a struggle to get

to the open water or the lake. These plants provide excellent fish habitat, waterfowl food, reduce erosion and improve water quality. Recent Augusts have had fewer plants making it a breeze to get to the open lake from the bay. Fewer water plants have attracted more boats that venture further into the swamp and adversely affect the fragile wetlands ecosystem. I treasure this swamp. To me it has more value than a sugar sand beach. Where else would you see a trumpeter swan attack an otter on the ice like I saw six weeks ago? Now the swans are nesting in pretty much that same spot. I think the proposed RV park is just in the wrong location.

Sharon Natzel, 13623 County 20, Park Rapids, MN, said I am a year-round resident on Long Lake. I just wanted to point out the Dr. Wallek in Bemidji has shown that with water quality going down on certain lakes, that the land values can actually go down too. We heard from another speaker about 50% of the tax base, at least in Hubbard County, are from lake residents. We have to be really careful about the water quality. We know that many of the comments regarding this area being very shallow can also bring up other pollutants that have been deposited in the lake, but because of the stirring of the shallow waters, they are reconstituted in the water. That area is in the north part of the lake, and the lake pulls south because of the dam. It is very important to think about the water quality in that lake. As the previous speaker talked about the sensitive lake area, the attributes, that same study with all of the attributes was done on about 20 other Hubbard County lakes. As another speaker said, this could be something that can be valid in other areas of our County. Please consider carefully your decision that you are making, as far as your recommendation to the Commissioners.

Written public comment received from:

- Betty Larsen, 17166 Dream Catcher Drive, Park Rapids, MN 56470
- Tom and Sheryl Drake, 14268 Chippewa Loop, Park Rapids, MN 56470
- Jolanta T. Oliver, Derek K. Oliver, 14114 Chippewa Loop, Park Rapids, MN 56470
- Edgar F. and Phyllis S. Hansell, 13962 Chippewa Loop, Park Rapids, MN 56470
- John C. Hansell and Joyce M. Hansell Nelson, 13992 and 13999 Chippewa Loop, Park Rapids, MN 56470
- Stuart Hamilton, 16031 Dakota Shores Drive, Park Rapids, MN 56470
- David and Nancy Neal, 17747 Enchanted Drive, Park Rapids, MN 56470
- J. Mark Haugland, M.D., 4621 Fremont Avenue South, Minneapolis, MN 55419
- Mary Germscheid, 17624 Emerald Island Trail, Park Rapids, MN 56470
- Jim Cashman, 17624 Emerald Island Trail, Park Rapids, MN 56470
- Paul and Christie Cashman, 17681 Emerald Island Circle, Park Rapids, MN 56470
- Dan Repinski and Maggie Cashman, 17636 Emerald Island Trail, Park Rapids, MN 56470
- Vicki and Dale Dannhaus, 17620 170th Street, Park Rapids, MN 56470
- Long Lake Area Association (Hubbard County) Foundation, P.O. Box 808, Park Rapids, MN 56470
- Ann Haugland, 1029 E Bloomington, Iowa City, Iowa 52245
- Katherine and Arthur Howe, 13988 Chippewa Loop, Park Rapids, MN 56470
- Andy Froelich, 17700 Emerald Island Circle, Park Rapids, MN 56470

- Wayne M. Aamoth, 17727 Emerald Island Circle, Park Rapids, MN 56470
- Eileen Froelich, 17700 Emerald Island Circle, Park Rapids, MN 56470
- Gregory Johnson, 2700 S Lorraine Place, Sioux Falls, SD 57106
- Bruce M. Johnson, 17413 Enchanted Drive, Park Rapids, MN 56470
- Linda D. Johnson, 17413 Enchanted Drive, Park Rapids, MN 56470
- Ms. Sam Oliver, 14114 Chippewa Loop, Park Rapids, MN 56470
- Mary Walker, 17459 Enchanted Drive, Park Rapids, MN 56470
- Beth and Mike Mustar, 17459 Enchanted Drive, Park Rapids, MN 56470
- Marlene Rance, Big Mantrap Lake, Park Rapids, MN 56470
- Tom Pederson, 15814 Candlelight Drive, Park Rapids, MN 56470
- Lane and Brian Breitenwischer, 14114 Chippewa Loop, Park Rapids, MN 56470
- Ashley Spring, 17459 Enchanted Drive, Park Rapids, MN 56470
- Fred and Lois Madsen, 17835 County Road 107, Park Rapids, MN 56470
- Charles E. and Kathleen F. Johnson, 17419 Enchanted Drive, Park Rapids, MN 56470
- Todd and Karin Hansen, 14298 and 14322 Chippewa Loop, Park Rapids, MN 56470
- Kerry Cashman and Bill Barnett, 17602 Emerald Island Trail, Park Rapids, MN 56470
- James P. Peters, 460 Franklin St N #100, Glenwood, MN 56334
- Nancy Melquist, 17459 Enchanted Drive, Park Rapids, MN 56470
- Mark A. Larsen, 17166 Dream Catcher Drive, Park Rapids, MN 56470
- Clint and Amy Newsum, 17621 Enchanted Drive, Park Rapids, MN 56470
- Dennis, Diane and Bryan Benda, 17585 Enchanted Drive, Park Rapids, MN 56470
- Sandi and Todd Paulouski, 17555 County 107, Park Rapids, MN 56470
- James and Jona Seifert, 17723 and 17711 Enchanted Drive, Park Rapids, MN 56470
- Lowell Innes, 17885 Emerald Island Circle, Park Rapids, MN 56470
- Greg and Molly Sebold, 17684 Emerald Island Trail, Park Rapids, MN 56470
- Mildred (Billie) Cashman, 17681 Emerald Island Circle, Park Rapids, MN 56470
- Sally Walker, 17459 Enchanted Drive, Park Rapids, MN 56470
- Christie Rasmussen, 17269 Cattail Drive, Park Rapids, MN 56470
- Larry and Barb Roberts, 18500 Emma Drive, Park Rapids, MN 56470
- Anne Dolan, 17485 Emerald Island Lane, Park Rapids, MN 56470
- Randy Spring, 17459 Enchanted Drive, Park Rapids, MN 56470
- Beth and Jim Alseth, 16291 Dakota Shores Drive, Park Rapids, MN 56470
- Dawn, Dale and Olivia Hammerschmidt, 17447 Enchanted Drive, Park Rapids, MN 56470
- Jack Walker, 17459 Enchanted Drive, Park Rapids, MN 56470
- Pete and Tina Walker, 17459 Enchanted Drive, Park Rapids, MN 56470
- Taylor and Taylor Severn, 17459 Enchanted Drive, Park Rapids, MN 56470
- Scott and Regina Muhm, 17510 Enchanted Drive, Park Rapids, MN 56470
- Marit and Mike Sprenger, 17715 Emerald Island Circle, Park Rapids, MN 56470
- Julie Mickelberg, 605-212-0492

- Matthew and Brandi Backmann, 17767 Emerald Island Circle, Park Rapids, MN 56470
- Andy Hedstrom, 13462 Beach Haven Road, Park Rapids, MN 56470
- Sharon Natzel, 13623 County 20, Park Rapids, MN 56470
- Lisa Christen, 15275 Crooked Pine Trail, Park Rapids, MN 56470
- Tom and Patty O'Reilly, 17600 Emerald Island Circle, Park Rapids, MN 56470
- Jim and MaryDale Hansen, 17661 Emerald Island Circle, Park Rapids, MN 56470
- Mark and Colleen Tracy, 17602 Emerald Island Trail, Park Rapids, MN 56470
- James E. Blodgett, 17437 Bay View Drive, Park Rapids, MN 56470
- Lindsay Buchmeier, 17447 Enchanted Drive, Park Rapids, MN 56470
- Kari Richards, 15275 Crooked Pine Trail, Park Rapids, MN 56470

Petersen closed public comment.

Grob stated a lot of the things I hear with people referencing other engineering plans deal with the size of your road to your RV sites and the ability to back units in. When I look at it I see, somehow or another, placing units 12, 13, and 14 are major impacts to your planning case, and the fact that you are filling in 8'-12' of earth to make those sites and they squeeze your ability to have wider roads, which would make it easier to back in. Could you give me a sense of what percent of the earth movement you have to do of the 4,900 cubic yards is literally to enable those three sites? There is a lot of fill there.

Bolton answered it is true that we would be pushing dirt down to 12, 13, and 14, however in the event of leveling off 5-11, to level it off you would have to cut some dirt out too. It is just going to be taking dirt from the high spot to level out those lots and putting it in 12, 13, and 14. That same thing goes for 1, 2, 3, and 4.

Grob mentioned you seem to maintain pretty much the same elevation, within a couple of feet. Would you have to cut down the hill as much for 5-11 if you didn't need the dirt for 12, 13, and 14?

Bolton replied keeping the road pretty much natural, the road that goes through the RV park from the west to the east is going to be pretty much where it is right now. So that part doesn't change, where it is the back sides of 5-11 will be cut and pulled forward and put on the back side of 12, 13, and 14. For instance, this park is going to be built into a hill. After I am done doing all the grading and landscaping, it is still going to be an RV park built into a hill. Tom from LandTeam himself that it is going to be a very beautiful park after all the grading is done. It is going to be nice that each one of the sites is going to be terraced. I have stayed in many different RV parks and many of them have much smaller roads than a 25' area for turning in. In this park, you will be able to see all the way down, as opposed to the RV park that I stayed at in Texas, at Corpus Christi, where they are all flat and when you are there, all you can see is your camper right next to you. There is not going to be like a 1' drop for the first one and another 1' drop for the second one. It is going to have a really neat, appealing look. The road, however, is only 9' gravel surface road. However, it is going to be a 25' area. I have a CDL, I drive semis every day. I am driving one today. You can easily back in with a 25' turning area. You can easily do a 90' turn and it doesn't matter if you are going to be turning to the right or to the left, it is very

doable. I am going to be onsite, so for those folks that aren't professionals for driving and backing in trailers, I am going to be there and it is not going to be uncommon that I am going to be able to assist, help, or have them step out of the vehicle and I will back in for them.

Grob said the back sides of 5-11 of the RV lots are at ground level. Is there a retaining wall or anything there at all?

Bolton replied no retaining wall. If you walk up my hill, it is a hill already.

Grob continued you will just have a slanted hill from your property line down.

Bolton stated on one of my walk throughs, I pointed attention to the ditch from Emerald Island Circle into my yard closer to 1, 2, and 3. That slope is going to be very similar to the slope that I have from the property line down to lots 5, 6, 7-11. It is going to be an easily mowable hill.

Andres said upon reviewing the MN Dept of Health application, I understand that the MDH requires evacuation plans and storm shelters for manufactured homes and not RV campgrounds. Still though, where would your patrons seek shelter during inclement weather, high winds, tornado, or hail?

Bolton replied there is a trigger point for when you are required to do that and have a shelter. I think it is like 50. They could seek shelter in the bathhouse. My 14 site park did not trigger me being required to have that. I didn't put any extra buildings in my plan to have that. The bathhouse will be constructed and it would be a safe place. If you don't feel comfortable, if there is a tornado coming through, you are more than welcome in the bathhouse or the laundry area.

Andres asked it is going to be constructed of cinder block?

Bolton answered it will be 2' x 6' construction, like a home. It will be solid, but not cinder block I don't think.

Petersen asked is this your final for your revegetative landscaping plan, this drawing here? As far as what you are proposing to do when you are wrapping up everything?

Bolton responded it is a best guess. It is hard to say which trees will make it and which won't. I tried to point out on the walk through, showing which ones are on the line. They will survive and stay, it is just the ones that are in the middle of the lot where it would be impossible to back a camper in there; those are the ones that won't.

Petersen continued you are intending for the fence here?

Bolton replied it is all up to if you folks think that it is necessary. The park is built into a hill. On site 5, from the backside of that lot to the property line, it is going to be about an 8' height difference. It is up to you folks on if you would want me to have a 6' fence. It actually might impede Cliff's vision of the lake. With a 6' fence, by that fence being 6' up and the site being 9'-it is about 15'. Most campers are not even 10' or 12' high. It is whatever you guys decide to go with. I could almost see him rather not having the fence.

Petersen asked are you talking about one of the neighbors?

Bolton replied I am speaking of Cliff, he spoke earlier. After things cool down, I would like to visit with him and see what he would want. A fence, no fence, whatever direction he would want.

Andres added I personally would like to see some type of post construction revegetation plan.

Petersen asked from a landscape architect?

Andres replied yes.

Petersen said if you were to get involved with that, it would undoubtedly be more specific on exactly what you have got here. On this drawing that Buitenwerf has pulled up here, in the bottom corner are shrubs and trees, but of course it is vague so we don't know exactly what you are doing where. What Andres seems to be suggesting is that if you had a landscaping architect plan as part of this, they would put in their recommendations and specifically we would know what you were going to do.

Johnson asked did Grob say that would be a condition that he would have.

Petersen clarified he suggested that we could if we choose to make that part of the condition, a formal plan as opposed to his.

Andres asked are you planning to add lighting to your dock?

Bolton answered I actually have some lighting on my dock right now, I like it a lot and I am going to be doing something similar now that it is going to be getting further out there. I would like to have some lighting for if people go out and do some night time fishing. They will be safe.

Petersen asked Buitenwerf I am still trying to come to grips a little bit with the discrepancies in dirt that could be moved. I am just wondering, do we have a say or are we the governing body in what can be done there as far as cubic yards? Is that something we have a say in, or no?

Buitenwerf replied the volume of material would certainly be something that would be a factor that the Commission could make a decision based on that, in part or in whole, when you are answering the findings of fact.

Bolton added with regards to the graph that you have got showing the driveway going straight out, whether it is going straight out, or it is curved down, LandTeam had built the road really high up on the graph that you have got that goes straight out. I have told him that it is not going to be built up like that. That is how the amount of dirt got removed. Whether it is curved down or goes straight out, it is not going to be built up. He had built it up in some spots 8'. When you have got a 25' wide x 8', that is how you get up to 8,400. Whether you are going straight out or curved down, it is not going to be that much dirt moved.

Andres asked have you had this property surveyed to establish that northern boundary line?

Bolton replied actually we did. My folks owned the property before me, and my uncle owned it before my folks. At the time that my folks took it over from my uncle, it was professionally surveyed at that time.

Andres continued so your neighbor knows exactly where the property line is too? You both know?

Bolton answered he should because at that time, since it was kind of questionable, we put in a post and a wire fence so it would be really clear where the property line was.

Petersen said if we were going to entertain this motion, we wanted to get out for public record the conditions that we have thought about that would be applicable if we were to recommend this for approval. I think we will have Grob go through the list so that you are clear on what we are thinking about here and if there are any questions or comments, we can address them.

Grob stated I think that we should have Buitenwerf put up the ones that are in the plan and we will go down through them and add or subtract accordingly.

Petersen said I will read through them so everybody can hear. These are a starting point that was recommended by Environmental Services staff and I think there will be a few more things in addition, let me read them and if anybody has any questions or wants to stop me, go ahead.

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. The outstanding Shoreland Management Ordinance vegetative alteration violation in the shore impact zone on the property originating in 2013 shall be fully resolved to the Hubbard County Environmental Services Director's satisfaction before the operating permit for this use shall be issued.

Petersen said I am going to stop myself there. That one has been resolved, Buitenwerf?

Buitenwerf replied it is satisfactory where it can be at this point in time. It is in that the shrubs that were required have been planted, but we have to monitor that for a number of years to make sure that they remain viable and they may very well need some new planting due to winter kill, that sort of thing.

Grob asked is that statement okay or should we add something that this needs to be monitored, or is this sufficient for monitoring?

Buitenwerf responded in light of recent events of that planting having been installed, I would say some modifications would be appropriate.

Klinger added we would request that too because it no longer a violation.

Discussion ensued about the modification of condition 3.

Grob asked what would you suggest it say so that you have the ability to monitor?

Buitenwerf said I would suggest some timeline, 3-5 years that it would be monitored. Then, as the Department would find necessary, the replanting would take place to make sure that it stays viable and is a successful restoration.

Grob stated what if we add to that Environmental Services will monitor the resolution for a 5 year period of time to ensure that the violation is not repeated.

Discussion ensued about making the alterations to the conditions.

Grob read the revised version of condition 3 as follows:

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.

Petersen continued reading:

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

Grob added I just want to point out that is a month earlier opening than the previous one last fall. I am ok with it.

Bolton commented this year wouldn't have helped much, but some years it would be nice for the camping community.

Petersen continued reading:

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.

Discussion ensued about an updated final drawing to be available to the Commissioners for their review and whether it should be a condition or as part of the recommendation.

Buitenwerf added some of that depends on when you would want that, at the end after it is approved, or if you mean prior to the County Board considering the application?

Grob said I think the Commissioners are going to want Exhibit B to reflect the exact plan that they are going to be voting on. The question is, should we put it in the condition, or should we put it as part of, if we make a recommendation, we attach that to the recommendation that when it is reviewed by the Commissioners, that an updated Exhibit B be provided.

Buitenwerf added then I advise that you entertain the idea of tabling the application to allow that information to be submitted to you before you would make a recommendation.

Grob stated we have that problem in a couple of areas. A stormwater plan by a professional and a vegetation plan by a professional. I would see all three of those as things that the County Commissions are going to want. I am looking for help here, what is the best way to handle this?

Buitenwerf said tabling the application, if that is additional information that you would want to see, would be the appropriate way to go. Otherwise if you make a recommendation that those things be provided, then there isn't the mechanism for us to communicate to Mr. Bolton that he needs to supply those things.

Grob added we would, through these conditions. If we go through these conditions, we would put in that a storm water plan and a vegetation plan have to be developed.

Buitenwerf replied you asked for my recommendation and that is it.

Petersen clarified your recommendation, Buitenwerf, is to table it and get those items to have them before we would proceed based on those two things?

Buitenwerf answered yes.

Klinger asked may I entertain a third possibility?

Petersen responded you can.

Klinger continued if you need that to recommend to the Commission, can we get that information to you prior to the Commission meeting, rather than tabling the application?

Grob stated I think that Buitenwerf is saying that we should review those and be satisfied with them before we forward this to the Commissioners and it would be new information to them. We should, in fact, be validating that we are in agreement with those. It is our job. If you look at the requirements, all that has to be done.

Klinger said I just wanted to make sure we were all on the same page that is all.

Petersen added I think finalizing things that we can review first and then making a recommendation to them would be the best plan.

Johnson mentioned it gets into spending money without knowing the end result.

Grob said can we continue through these conditions, because there are additional ones that we want to add and make sure that everybody is on the same page. For those, the same as the vegetation plan and stormwater plan, we could make a comment that they need to be available before work starts. Then we would have those conditions, but then end up tabling this and asking to review those at a future meeting.

Christenson asked may I comment for the Commissioners?

Petersen replied yes.

Christenson stated I think Buitenwerf brings a valid point. If you are going to recommend that we would look to approve or disapprove this, but you don't have those three key elements, how can you then give us a recommendation because you have not viewed these?

Grob added that is what I am saying. It is a condition that it exists in order for this to be voted on. For work to proceed on this, if it is approved, those plans need to be in place.

Christenson asked Buitenwerf is there a point of going through the conditions if this Board would like to see those three things prior to making a decision? Would it not make more sense to go through the conditions after it is tabled and they have viewed those three items?

Buitenwerf replied yes unless by preliminarily going through the potential conditions, that would lead to additional pieces of information that the Commission would find that they don't have.

Christenson said I am fine with that.

Grob clarified that is why I was looking to add those.

Petersen said are we going to continue these?

Grob agreed. Let's keep going, understanding that we are probably headed down a path to table it and ask for those things.

Petersen continued reading the potential conditions:

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.

Johnson said I have a question about that. I have been at campgrounds with generators without them being 4-stroke. That means they can run a generator during the day without a muffler and they can shut it down at 10.

Bolton added there is electric provided. There is no extra charge. You would be a fool to run your generator if electricity is right there.

Johnson responded I see thousands of them do it with electric at campgrounds because the electric can't handle everything.

Klinger said as an attorney, my problem would be the definition of who defines what quiet is?

Bolton added we are providing 50 amp service; and there aren't campers out there that require more than 50 now. We do provide 20, 30, and 50 amp.

Johnson asked so you have no problem with a condition of no generators being used.

Bolton replied I don't have a problem with that because I really don't see where they would be.

Discussion ensued further about condition number 6.

Petersen continued reading the proposed conditions:

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 **(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 when we did the conditions before; this condition said that any owner or manager's watercraft slip is included in the 8 allowed slips. That was in our previous one from last fall and I would like to add that.

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.

Grob stated I would like to add that channel buoys shall be placed annually, establishing a 15' channel.

Discussion ensued about the wording to be added to condition 14.

Petersen continued reading the proposed conditions:

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.
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.

Grob said I want to add that the lighting should use down lighting designs that minimize light pollution.

Petersen continued reading the proposed conditions:

17. An 8' high privacy fence shall be installed and maintained in good repair on the entire north property line.

Grob added from the drawings that I think Mr. Bolton provided us, he showed 280' and 6' high. Is 8' necessary?

Bolton stated keep in mind behind site 5, it is going to be a difference of about 8'-9' and as you go over to site 11, it is even more. You certainly wouldn't see a camper from the neighbors to the north, and you might be impeding some of what they would like to see up above the fence. I think 8' is kind of tall.

Grob said I am suggesting that we take his drawing and say a 280' long x 6' high privacy fence shall be installed and maintained in good repair on the north property line.

Discussion ensued about amending condition number 17 to now read:

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.

Petersen continued reading the proposed conditions:

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.

Bolton asked isn't the fence taking over the part of the vegetative buffer? If I have a 6' tall fence there.

Grob explained the Department of Health establishes that 20' vegetation; doesn't it?

Buitenwerf clarified the Department of Health requires a 20' buffer from the property line.

Petersen asked just a 20' separation, but they don't address vegetation.

Buitenwerf replied I would have to check on that, I don't remember.

Bolton added if I have to put the fence there it would be nice if I could do grass up to it. The fence would be the vegetative buffer.

Grob said we covered the DNR conditions for the dock because that is under Exhibit C. We established the shore impact zone no mow, that 50%. I don't know if we have to memorialize this, but the MN Dept. of Health must provide a written approval of the project before a permit can be issued. That is one of the conditions in the actual Shoreland Management Ordinance, right? Is 402.8 A "Recreational vehicle camping areas shall be licensed by and meet the minimum requirements of the Minnesota

Department of Health in addition to the requirements of this Ordinance.” Should we also put that in as a condition or is that already known?

Buitenwerf explained you certainly can, but it is already a requirement of the Ordinance.

Discussion ensued about proposed conditions.

Grob added I would say a written stormwater plan by a qualified professional must be developed for the property as a condition.

Petersen asked does that work for a condition, Buitenwerf? I think that one of the things that we are going to be tabling this for.

Buitenwerf replied I would recommend that would be in hand before you take action.

Grob clarified so you are saying don't put that in here, we have to have that in hand. The last one is no beaching of watercraft in the area identified by the DNR letter and no mooring in the area identified in the DNR plan.

Andres stated I have one more thing that I would want to suggest. What about expansions, accessory structure or anything of that type to the property? Do we need to limit that or leave it open?

Grob asked isn't that clarified under number 1?

Andres added number 1 just says land. I was just questioning if we wanted to put any limitations on accessory structures or any type of expansions to the property.

Grob explained the one condition establishes that there is only one non-rental structure on the property.

Andres asked if he wants to put some accessory structures up, they can be permitted by the regular Environmental Services land use permits?

Buitenwerf clarified that is correct, lacking a condition that would speak to that issue.

Grob asked so what she is suggesting...

Buitenwerf stated it is a good idea.

Petersen said give him the language.

Andres added well Buitenwerf has done this before, but being that this is operating as a conditional use permit, that no expansion accessory structures can be allowed without amending the conditional use permit.

Grob stated I have one last one. This one was in the prior conditions last fall, and that is that no permanent RV sites can be used as rental units. If I can find the wording, we had the right wording last time.

Christenson asked Buitenwerf currently there is no regulation in Hubbard County for VRBOs because it is not mandated at the State level. How would this be enforceable as a condition?

Grob explained this is not a VRBO and if he places 3 or 4 campers that he owns there and rents them, it is a resort and we are not dealing with a conditional use permit that is a resort. It falls under a resort if he puts in permanent campers there and rents them.

Klinger said I think that is kind of the same concept that you are doing and I don't think that is enforceable under the Ordinance either. I don't understand how that is rationally related to the Shoreland Ordinance in terms of conditions. I am just speaking from a lawyer's perspective. I think that we would challenge that condition if you put that in the CUP. If you choose to put that in the CUP, we would consider challenging that condition.

Bolton stated there are no other CUP ran RV parks in Hubbard County that have any regulations on VRBOs.

Grob added that doesn't matter. We are dealing with a very unique situation here.

Bolton explained we are trying to run an RV park and we just want the same rules and regulations.

Grob said my premise is it's not an RV park if you are establishing permanent units and then renting them, it is a resort.

Christenson added could you say sublet?

Klinger stated even that is not going to be enforceable under the Ordinance.

Petersen asked Buitenwerf what is your take on trying to put that into the conditions?

Buitenwerf said I would recommend against it. A resort is one and the same with an RV campground in that they both fall under the general commercial planned unit development umbrella of conditional use categories.

Johnson stated I would like to add a condition of no discharge of any firearms and also if we could, of any adjoining properties that he is in control of, of no discharge of any firearms. With that many people, for safety reasons.

Petersen added I do not have a problem with that. Do you have any comment on that Bolton?

Bolton replied it makes sense because it is a safety deal.

Johnson added safety and noise.

Bolton continued like I said in my opening speech, there is gunfire a lot out there and I haven't shot a gun for over a year. Everyone thinks when they hear gunfire that Bolton is shooting his guns, and that is not the case. I just hope that by putting that on there, if Mr. Innes is shooting his shooting range, which is right behind me, that Bruce Johnson doesn't think that I am shooting or one of my guests is shooting. I agree with the safety part.

Petersen asked you have no problems with that condition?

Klinger answered legally, no. If he wants it, that is fine. I think it is more of a safety issue.

Petersen said I can tell you that I am in favor of the condition.

Johnson added one other recommendation that I was thinking was requesting that the applicant look into a performance bond for the Commissioners to ensure that you will do what you say according to everything that is spelled out. Since you are doing your own excavation, that hillside isn't left all full of dirt if something happens to you and stays that way for years.

Bolton asked can you recommend it to the County Board if we go ahead with that?

Johnson explained that is what I am doing now.

Bolton asked is that unusual, I haven't heard of performance bonds for the construction.

Johnson said I am going by your history from what I have seen in violations. I am saying it straight out that I don't trust that you may do what you are saying that you are going to do. Only from your past actions, but I can't make a decision over that in my mind. I am thinking why not a performance bond that ensures it gets paid for and gets done, instead of going half way through and then quitting.

Klinger added I am not sure that would be enforceable. I am not aware of any requirement of posting any civil bonds under that Statute. That is normally a construction type aspect.

Buitenwerf stated having some form of a bond for those types of remediation purposes if need be, it's not out of the ordinary.

Bolton asked what kind of money are we talking here? How does that work?

Johnson replied whatever money it would take to finish what you are doing.

Petersen said I can't comment on it, I don't have any expertise in that area. I know how it works. I like the idea of it, but what would it cost him?

Bolton stated I am already way over budget now.

Discussion ensued about the details of having the applicant provide a performance bond.

Buitenwerf added I can certainly consult our legal counsel on that and my other thought would be to ask the applicant to get a cost estimate put together from the civil engineer that prepared the plan and then we would have a more accurate number.

Grob added I see that as a Commissioner issue, but we can prepare the information.

Petersen asked for anything else on the conditions.

Discussion ensued about the proposed conditions and additional information to be submitted by Bolton.

Buitenwerf added per Grob's comment about wanting a more specific stormwater plan, you might want to flesh that out as to what information to supply because we do have a very general stormwater plan that was included in the application from LandTeam, but I think you are looking for something in greater detail that shows the ditching and that sort of thing.

Grob asked where do I see the stormwater plan?

Buitenwerf replied it is on the screen and in the application and you all received a copy of it.

Grob stated all that I saw were arrows for waterflow. Is that a sufficient stormwater plan?

Buitenwerf answered you are referencing material that was in the public comment. That was not a part of the application.

Petersen explained I think my difficulty would be knowing what I could tell you I would want as criteria for a stormwater plan. I don't think I would be able to do that. Do you see these often? Can you give us recommendations on whether this is too general? We want more specifics.

Buitenwerf stated if you want more specifics, you would get into things such as you want a plan that is designed to accommodate a certain rainfall event and like a 2" rain.

Petersen asked it would itemize that so to speak.

Buitenwerf answered it would then show calculations for ditching, bale checks, sedimentation basins, those sorts of things as necessary to be able to accommodate that amount of precipitation on the site.

Petersen asked is it your recommendation from your department that we should get that?

Buitenwerf replied it would certainly be helpful, but I was just mentioning that as far as Grob wanting a stormwater plan. We do have that, it is just very general. If he was looking for more specifics, then he would mention exactly what those are so Mr. Bolton knows what it is that he needs to provide in terms of additional information.

Johnson stated I would guess mainly to what diversion we would be doing around the drainfield sites since the road berm pretty much stops the stormwater. It would probably be diverting it away from septics and a plan for that.

Petersen said beyond that I can't tell you what to add because I don't know beyond what Buitenwerf just said. Bolton, are you clear on what he has given you so far?

Bolton responded kind of just because of the fact that we don't have ditching or anything like that in here. This plan didn't require it. Had it been a situation where it was required, we would have had, for instance a Wal-Mart where they have a big pond so that in a 2' rain it flows in there. I don't have any of those situations and I don't have impervious surfaces that are 25%. I do not fall into that category. I can see what LandTeam has for options for that. It is a pretty basic stormwater plan because I already have that protective berm that goes from my property and keeps everything from the lake. The vegetative plan, I understand that and an accurate grading plan and accurate stormwater plan. I can understand that it is important. That is something that he can probably do by the end of this week.

Grob stated how about the septic system thing that Johnson brings up. There are a lot of steep grades, your terraced steep grades. All I see is any rain is just going to flush right down through your campground into that space between the existing road and then flow down into your overflow parking area. That is kind of your rain garden if you will. I am just concerned with all of the erosion that could occur on your roads. I have a driveway like that into my house. Every heavy rain, I am repairing it. And it seems to me that we are thinking about how you are going to control water running off from behind your campsites and those other areas without having major erosion would be the thing I would be concerned about from a stormwater standpoint. Buffer berms on those roads.

Bolton said I think with all the grass, as long as the grass is thick, that is going to stop a lot of the erosion once you hit the grass there.

Grob added except your gravel roads won't. They will wash.

Bolton replied that is a case where everyone's gravel road is going to need blading after a big rain. That is just natural.

Grob said if that is not something that we should worry about. It is obvious that any runoff is not going to run into the lake, the way your property is. It is not going to affect the lake. If we don't think we want to worry about the erosion on any of the hillsides and roads, that is not our issue to worry about; I don't know if we need any more information.

Bolton added there already is a condition in there that all the areas will be grassy. If I have that, I don't think that is going to end up being a problem.

Grob asked do we want a stormwater plan? More than what is there?

Johnson stated I am fine with it myself because of that road there I guess. If the road goes bad, he has to fix it.

Bolton replied exactly. People with campers are not going to want to have a rough road.

Petersen said we are down to three items, if we are fine, then we will scratch that.

Christenson added I think Buitenwerf has a good suggestion to have an estimate of what the project is going to cost. If the Commissioners would like to look into a performance bond, it would be nice to know that dollar amount.

Petersen stated we have that as one of the things that we are going to need.

Buitenwerf said if it would help you in making a motion, I have got the findings of fact up on the screen. You will see a number of the questions do get at that stormwater issue.

Grob commented number five basically is one I was thinking about.

Petersen said I am fine with putting it back in there, but I can't speak to what it should include. That is where I would need help or some input from somebody to give him direction on what he is going to require from his engineers. If we put it back in, that is fine, but we have got to give him something to go on, right?

Buitenwerf answered yes and probably the easiest thing to do would be to say that you would want a plan that would be able to accommodate a 2" rain event. Or it is considered a 500 year flood event. That would show specifics down to the level of detail of ditching, sedimentation basins, work bale checks, silt fences would be installed.

Petersen stated I think he has just given you what you need to give your engineers to get that plan with the 2" rain. I assume that they would know what to do from there to provide us with documentation that would satisfy us up here and the Commissioners.

Grob added stormwater plan to accommodate a 2" rain event.

Petersen asked could it be that simple to tell them that?

Buitenwerf replied yes and then I would add in general that you would be looking for that detail of where bale checks, silt fence, sedimentation basins, ditches, etc. would be located.

Bolton asked would that be just during construction or is that permanent?

Buitenwerf answered typically you would have a plan for while the site is open during construction as well as a post construction permanent plan.

Petersen added my guess is that if you were to talk to them about that Bolton they would probably know and be able to give you direction on what they knew they had to provide for you. I am assuming that. We are back to four items that we are looking for here?

Grob listed the performance bond; an estimated cost of the project is a subset of that based on Christenson's input. Updating the plat drawing and then a stormwater plan both during construction and post construction for a 2" rain event. Doesn't the SWPPP plan address stormwater issues during construction?

Bolton answered I think so, but that is part of that verbiage that none of us can read because it is so small. It does kind of detail that. There are a number of things that I am going to be putting into this where before the grass is up, I am putting a fabric down, a BMP I think they call it, that can save the soil there before the grass comes up. Things like that; that ties into the SWPPP. And that is the permit that I have already purchased. So I guess from me, you just need those two drawings corrected, you want a vegetative plan and you want a picture of a 2" rainfall through the park plan.

Petersen added we are talking about a performance bond so we are going to need some cost estimates from you.

Bolton asked isn't it enough that if the CUP would go away if the RV park didn't come about the way it is in this plan. Isn't that enough?

Andres explained I think what they are trying to provide clarification for is that if something was to happen and you were halfway through your project and then you were to quit, your neighboring people would see an unfinished project. This performance bond would tie that up and finish it out. Take it back either to the original or finish it up in some way or another.

Buitenwerf added a logistical detail for you to keep in mind is that due to the 120 day maximum review window that we have with the 60 day rule that requires that this information, if you are entertaining the motion to table, would need to be provided for the June meeting to allow time for the County Board to act on it in July at one of their meetings. That would keep us within that maximum 120 day window.

Petersen asked for clarification.

Buitenwerf explained the application was made on April 29, so in order for the County Board to be able to act on the application within the maximum 120 days that we can have for our review, they would have to act on it at one of their two July meetings, which means that we would have to have that information for your action at the June meeting. It is from the date of application.

Discussion ensued about a deadline for information to be submitted.

Andres said one of the things that we are trying to clarify in order to table this for you to get this information; you would need to provide this information to us by Tuesday in order to be on June's agenda. Is that something that you can do?

Bolton replied yes, I will work with Buitenwerf and get this.

Buitenwerf stated by the end of next week would be even better.

Motion by Andres, second by Johnson, to table Conditional Use Application 4-CU-19 until the June 24, 2019 hearing in order for the applicant to provide the following information by the June hearing application deadline of 2:00 p.m. on Tuesday, May 28, 2019:

1. An estimate of the project cost
2. A performance bond proposal
3. A post-construction revegetation plan for the entire project area prepared by a licensed landscape architect
4. A stormwater management plan for both during construction and post construction designed to handle a 2" rainfall event prepared by a licensed engineer
5. An updated grading site plan that shows the proper driveway location onto Enchanted Drive prepared by a licensed engineer

The motion passed 4-0.

Board of Adjustment:

Approval of Minutes: April 22, 2019

Andres made a motion to approve the minutes as presented.

Petersen seconded the motion that carried unanimously 4 – 0.

Old Business:

[Amended Variance Application 3-V-19 by Steve Thompson](#): Part of Government Lot 1, Section 12, Township 140, Range 34, Henrietta Township on Boulder Lake, a recreational development lake. Parcel 13.12.00600. Applicant is requesting a variance

from Sections 502.2 and 702 of the Shoreland Management Ordinance for a proposed addition to a nonconforming structure that will increase the ordinary high water mark and road right-of-way structure setback nonconformities.

Steve Thompson, 21072, County Road 18, Nevis, MN, presented the application along with his contractor Eric Munson.

Thompson stated what I am looking to do is increase the size of that west addition to 30' x 24' by moving it 10' closer than the existing structure to the lake per the recommendation at the last meeting.

Petersen said I am going to jump right in here, you and I discussed a little bit out there; just so we are clear where we are starting here. When we suggested out there the last time about moving it; we weren't talking about the 30' x 24' dimensions at that point. That got changed. I don't know what the Board's feelings are on that, but I just want you to understand that we took a look back at the minutes and we weren't saying 30' x 24' at that point.

Grob added to pick up on that, two things. One is why did you expand to 24'? We had all that discussion. Number two is what do you intend to use that space for?

Thompson stated I have floor plans right here that I can give you guys. We originally wanted to go 24' wide, but it was too close to the drainfield. Once we moved it closer to the lake, then that moved it at 24' further away from the drainfield. So we thought that we could go for that extra space. That was the reason. It is not a deal breaker for us, we can squeeze this down, but it just makes this living space a little easier to put into that space with that little extra room.

Petersen asked to look at the plans.

Thompson gave the plans to the Board.

Petersen said while we are taking a look at this, we are going to open up for public comment.

Petersen opened public comment. There was none.

Petersen closed public comment.

Petersen asked for any questions on the layout.

Andres asked it looks as though there is a possibility that if you would go back to the 30' x 19', would you be shaving off the bedroom?

Munson replied it would be very tight. Because we are trying to get that office, he works from home and he needs that second space for his office. If we constrict it down to 30' x 19' if you look at the floor plan, it is going to be impossible to achieve that with a reasonable master suite.

Grob asked is that utility room, washer and dryer, where are those located now?

Thompson answered there are none.

Grob asked where is the bedroom now?

Munson replied the west addition. There currently isn't a bedroom in this home without it.

Thompson clarified there is a loft that we used for a sleeping space.

Munson added there is no bedroom per se.

Andres said I believe when the house was constructed by variance in 1991 it was for a seasonal guest cabin only so I would assume the loft was the sleeping quarters for the guest cabin.

Petersen asked when you were thinking that you were going to have to do 30' x 19'; did you have some different layout than this?

Munson asked the deviation of 30' x 19'?

Petersen asked what was different on that from this?

Munson explained it shrinks the master down. We have deviated and you can even play with it, but trying to achieve the square footage with furniture. I do have some sketches if you would like to take a look.

Petersen asked of the 30' x 19'?

Munson replied yes and it is more based on the last variance.

Discussion ensued about the sketches.

Petersen mentioned your entrance to the bedroom off the hallway; it is kind of an extra wide hallway when you turn right to go in there. Personally I am struggling a little bit. On the one hand we suggested to you to move this up. I feel some responsibility to work with you on that. The reason I was asking about that 30' x 19' was that if you had something that worked then, could we make that work now.

Munson responded if we have to, we have to. With all due respect it is not going to be what these folks are looking for. When you did the walk through that one time, we had it at a 30' x 24' and that is when we noticed that we were encroaching on the drainfield, if you remember. That is why the whole 19' came up. It was suggested in the minutes I believe last time, that if we moved it towards the lake that we could go wider, because we are not encroaching on the septic.

Petersen added I don't know if that was suggested at least in what I heard. We kind of went down that road last time and I want to make sure that you don't have a misunderstanding about what we said last time with what we are trying to do now.

Munson stated we are just trying to figure out the last 5' that are in play. We are not encroaching towards the lake any closer. We are meeting all our setbacks from the septic

and drainfield as well. And we have that berm that you saw so there is definitely no chance that any additional water problems. The water mitigation is simple.

Petersen asked Grob you had some suggestions about water and a gutter.

Grob explained yes, but I am trying to get through my head why can't we stick with the 30' x 19'? What you have done collectively, and we approved a 25' x 15' before; that is a fairly major expansion on a lot that is really not suited for it.

Johnson added I agree with Grob. The bedroom is oversized. The office could be in the master closet with it being 6' x 9'. The bathroom is lovely from a plumber's standpoint.

Thompson commented it is very small.

Johnson stated no, small is 6' x 8'. This is a nice bathroom. I see no reason that it couldn't be the 30' x 19'.

Andres added I am in the same situation and I have the same feelings. I know when it was discussed that you did not meet that 20' setback; you said you could make 19' work.

Petersen stated my other concern is, if we go to approve this, we have got two questions on the findings of fact that we have to provide rationalization to saying yes to.

Grob said I think the larger size makes it harder to say yes to those. When we proposed moving closer to the lake, which is an unusual move for us, but your yard is such that any water runoff could be handled except for one thing and that is where you have a cut in the ice ridge where the water can flow directly into the lake. Would you be amenable to a condition to build a 2' earth berm in front of that?

Thompson asked that open area?

Grob explained that just keeps the water from flowing into the lake and it will probably run to the left into that wooded area and that you would provide gutters on this addition that would direct the water, not onto your drainfield, but to that wooded area to the left. That is one of the biggest concerns about the setback from the lake, is to control water running into the lake.

Petersen asked where are you suggesting the berm Grob?

Grob answered if you stand and look at the lake, there is kind of a high ice ridge. It would take a monsoon to do something, but right in the middle of it, there is a cut about 6' wide that he said used to be for where they had their dock but he doesn't put it there anymore. It is very obvious there is erosion there and I am suggesting that he put some dirt there and vegetate it such that any water that ran down into his front yard would not go out directly into the lake, but would flow into that wooded area to the left. I don't think there are any pictures that show it, but that was my biggest concern in looking at if this affects the lake in any way when moving forward.

Thompson replied I do not have any problem with that.

Petersen asked Buitenwerf do you have any concerns about a condition like that? Would we be on solid ground there so to speak by putting that in there?

Buitenwerf agreed.

Grob stated I think that is consistent with proposing moving closer to the lake.

Discussion ensued about the area for the proposed berm.

Petersen said I am gathering that we are kind of all on board with holding it at 30' x 19'. So I think that is the way that we are going to lean on this. Our other option is to deny it outright. Buitenwerf, would we need to memorialize that in a condition, the 30' x 19' size as opposed to the amended application now shows 30' x 24', right?

Buitenwerf replied correct.

Petersen said we would make that a condition. If we were to make a motion to approve this, we would make that a condition of the approval. We would want to do that?

Buitenwerf agreed.

Discussion ensued about conditions to approval.

Grob made a motion to approve the application with three conditions.

1. The additional structure would be 30' long x 19' wide and that it's front face be parallel, or align with the surface of the current home and extend no more than 10' beyond the wall of the current house lakeward.
2. A 2' high earthen berm must be constructed on the ice ridge to prevent water from running to the lake.
3. Gutters be installed to ensure that any runoff be directed into the wooded area lakeward of the drainfield.

Johnson asked should there be anything specific to void the 24' x 30' in the application.

Munson added I would like to hear that if possible.

Grob asked for clarification.

Munson explained to void publicly why the 24' is being denied.

Petersen said when we made the offer to move it; we were at that time speaking of the 30' x 19'. That was our offer. Secondly, to me, in doing this, which we talked about earlier we don't ordinarily go with moving structures towards the lake. I am trying to keep the footprint as small as I can and what I am allowing to go forward. That would be my thinking on it. Number one that is what we talked about to begin with when we made that offer and Number two since it is unusual for us to do that we are trying to keep that

footprint small. Just to enlarge it because you want it, it would be nice I understand that, but in trying to come up with the findings of fact, I think we are going to have to craft some language in here to show that we are in harmony with the general purposes. I was hesitant to go with that 4' from the right-of-way. That bothered me. I wasn't willing to do that and that was why I was willing to move it forward, but only what we talked about. That is my rationale there.

Munson said the 4' in the right-of-way was already an approved variance. Moving it towards the road was approved, it was 25' x 15'. Those stakes were still in the exact same spot. We were not encroaching any closer with the last variance on the road. Our thinking was that it was already approved towards that road in those spots and then moving it forward we also have a variance on that property for a screened in porch. We are still not encroaching anything outside of applicable variances that are already on the property.

Grob asked are you making an argument for going back to the 25' x 15'?

Munson said no. We were struggling with the last one that was denied. You said it was a safety issue, Andres. But it was already approved, we are not any closer to the road. What we are asking to do is to roll the variance to the front of the house.

Johnson added to clarify a little bit, the time before I had more concern about that water in the corner, which you took care of.

Munson mentioned I actually like this plan better.

Johnson continued actually what I brought up was not so much your explanation there. What I wanted was a clear understanding that we were voiding what they were applying for this time and only allowing a 19' x 30'. That wasn't quite spelled out, as he said, as a condition. Is that the way you want that?

Buitenwerf replied as a condition yes.

Johnson said because normally we deny an application and then go into our new 19' x 30'. That way they have no claim to that old submittal.

Petersen clarified so that is the recommendation there?

Johnson added we kind of went around it a little.

Andres mentioned well it would fail if it didn't get a second.

Thompson said I can live with the 30' x 19' if that is what the sticking point is. I can shrink that bedroom.

Petersen asked because Grob has given a description of the 30' x 19', do we need to put further language in there to make sure that it is understood that we are deleting the 30' x 24', or is by doing what he has done so far, is that adequate in your opinion.

Buitenwerf explained the cleanest route is what Johnson just mentioned. Deny the application as presented and then entertain a motion to approve something of a different dimension. Then you have different findings of fact for those two separate actions.

Petersen asked is that all doable tonight?

Buitenwerf agreed. It just means that you do the findings of fact twice.

Andres added then nobody seconds?

Buitenwerf said yes in regard to the current motion.

Discussion ensued about the previous motion and how to proceed.

Grob added if my motion wasn't seconded, it dies. So then someone should make a motion to deny the application.

Buitenwerf added first, procedurally, I would recommend the chair call for a second and then hearing none, say that the motion fails for the lack of a second.

Petersen called for a second on Grob's motion. Hearing none, it has died.

Andres made a motion to deny the amended variance application as presented and adopt the staff report 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? Allowing a 14' waterward 720 sq. ft. addition to a 1056 sq. ft. house constructed by variance at a 75' OHW setback that now sits at a 70' OHW setback due to apparent shoreline erosion would not be in harmony with the ordinance's intent of getting structures further from the lake. The proposed addition's size is excessive for the lot and exceeds the original cabin's ~640 sq. ft. size. The size of the proposed house with this addition is too large for the lot. The lot is able to support a seasonal residence that existed for decades. It is not suited to a year-round residence and the additional living and storage space required by such.

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 original cabin is ~640 sq. ft. in footprint. A 2018 variance allowed 1,343 sq. ft. to be added to the structure both sides of the cabin – including where the currently proposed larger addition (720 sq. ft. vs. 375 sq. ft.) is proposed. The proposed addition would add 345 sq. ft. in footprint to the structure that is already allowed to be 1,983 sq. ft. in footprint and which is already a very reasonably sized structure for this lot. Bringing the structure size to 2,328 sq. ft. in footprint and moving it 10' waterward when the house is already at a 75' OHW 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 (X) No ()

Why or why not? The 100' OHW and 50' road ROW setbacks overlap by at least 20-25' on this lot. The house is located on the deepest portion of the lot which is still only ~146'. The west two-thirds of the lot averages ~45' deep. There is no way to do anything on this lot without a variance of some kind.

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 seasonal single family residences on the riparian lots and year-round single family residences on the backlots located on the south side of County 18. The neighboring riparian lots share this lot's lack of depth issue as they are all sandwiched between County 18 and the lake. The homes on the two lots to the east are located at approximately 20-25' OHW setbacks and are about the same size as the existing home on this lot. The next two lake homes to the east are located at OHW setbacks similar to that of the house on this lot and are larger in footprint – similar to that proposed in this variance application. The nearest lake home to the west is ~580' feet away. The homes on the backlots on the south side of County 18 are generally much larger than this house would be if the requested addition is constructed, set back ~130' from the road, and well screened by forested vegetation. This all said, the proposed addition will likely not alter 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 due to the lot being ~146' deep at its deepest point and the 100' OHW and 50' road ROW setbacks overlapping on the entire lot.

Petersen seconded the motion that passed 4-0.

Grob made a motion to approve a 19' wide x 30' long addition to the west side of the existing residence so the roadside of the addition is flush with the rear of the house and the addition should not extend more than 10' beyond the waterside of the existing building with two conditions:

1. A 2' high earthen berm must be constructed on the ice ridge to prevent water from running to the lake.

2. The new construction must be guttered to ensure the stormwater runs to the wooded area lakeward of the drainfield to the west of the cabin.

Petersen seconded the motion that passed 4-0.

Grob provided findings of fact for questions 1 and 2 for the approval and adopted staff report findings of fact for questions 3, 4, and 5.

Findings of Fact for approval of 19' x 30' addition

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 addition is more consistent with the intent of the ordinance. It addresses the stormwater issue on the front of the building and provides a greater setback for safety reasons from the road.

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 home, even with the previously approved addition, is still small in relation to what is a reasonable sized building. The addition is a reasonable request.

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

Yes (X) No ()

Why or why not? The 100' OHW and 50' road ROW setbacks overlap by at least 20-25' on this lot. The house is located on the deepest portion of the lot which is still only ~146'. The west two-thirds of the lot averages ~45' deep. There is no way to do anything on this lot without a variance of some kind.

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 seasonal single family residences on the riparian lots and year-round single family residences on the backlots located on the south side of County 18. The neighboring riparian lots share this lot's lack of depth issue as they are all sandwiched between County 18 and the lake. The homes on the two lots to the east are located at approximately 20-25' OHW setbacks and are about the same size as the existing home on this lot. The next two lake homes to the east are located at OHW setbacks similar to that of the house on this lot and are larger in footprint – similar to that proposed in this

variance application. The nearest lake home to the west is ~580' feet away. The homes on the backlots on the south side of County 18 are generally much larger than this house would be if the requested addition is constructed, set back ~130' from the road, and well screened by forested vegetation. This all said, the proposed addition will likely not alter 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 due to the lot being ~146' deep at its deepest point and the 100' OHW and 50' road ROW setbacks overlapping on the entire lot.

New Business:

Variance Application 7-V-19 by Kevin and Constance Roline: Part of Government Lot 5, Section 36, Township 141, Range 33, Mantrap Township on Owl Lake, a natural environment lake. Parcel 20.36.01020. Applicant is requesting a variance from Section 502.1 of the Shoreland Management Ordinance for a proposed deck that will not comply with the required 150' ordinary high water mark structure setback.

Kevin and Constance Roline, 22021 Forest Pines Drive, Nevis, MN, presented the application.

Kevin Roline explained what we are looking to do would be replacing an aged deck that is currently on the property with a maintenance free structure deck and redesigning the structure to be a little bit larger to accommodate for our family.

Johnson asked why do you need that extra 5' out from that?

Constance Roline stated our family is growing. We have three adult kids who are married and four grandkids, with two more on the way.

Grob said if you went 5' back, 2 ½' could be put on each side and you would have the same square footage and be in compliance.

Constance Roline continued we were trying to follow the shape of the house and then just put the gathering space out in front. Rather than having it long and narrow, we wanted a bigger area for a big table to eat at and be together all at one table.

Andres added it appears that you can actually increase your square footage, nearly doubling it, and still stay within the 150' setback if you just increased it on the sides and all the way to the setback.

Constance Roline answered we could. We just like this design better. We are not taking any trees down; we aren't bringing in any dirt. We are not changing anything except replacing the deck.

Kevin Roline added basically the deck will be hanging over the setback. Basically there would be two posts going into the ground, so that is the only thing that is going to be touching the ground.

Grob said I think the difficulty that we face is we are required to answer to the affirmative all five findings of fact. In your case there is no practical difficulty. There is no reason that we can justify violating the Ordinance just for family desire, if you understand what I am trying to say. It is not in harmony with the 150' setback. There are plenty of alternatives that are pretty straight forward. Just because it looks a little better and it might fit a table a little bit better, are not practical difficulties that we can justify in legally answering the five findings of fact. There is just no way we can justify that at all, I know what you would like to do, but to be consistent in our application of the Ordinance, we just can't say to go ahead and do it without there being some other constraint or practical difficulty that is preventing you from getting what you want to do. Legally it is just not right for us to be able to do it.

Petersen added I think he was pretty correct in what he said. It just boils down to that you have options, at least in my opinion, of what you could do as opposed to what you want to do. You could still increase the size of your deck and as he said we are really bound by those questions to try to answer them as best we can. We would struggle, in my opinion, answering them in the affirmative by allowing you to do that when you could build, I think by permit, enlarging the deck by permit would not need a variance.

Petersen opened public comment. There was none.

Petersen closed public comment.

Andres stated I am the same way. That is one of the reasons that I made the comment earlier that I thought you could build it and increase your square footage because we cannot answer those affirmatively for that situation.

Petersen asked is there any response to that. I think you know where we are coming from and where we are probably headed to.

Constance Roline answered no comment.

Johnson made a motion to deny the application and adopt the staff report findings of fact as presented.

Andres seconded the motion that carried unanimously 4-0.

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 proposed deck enlargement would encroach 5' 5" into the 150' OHW structure setback. There is plenty of room to nearly double the deck's size with a waterward enlargement that is able to meet the 150' OHW setback and

be done by permit. There is also ample room to either side of the existing deck that could be used to enlarge the deck area by permit without need of a variance.

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 existing deck is 340+ sq. ft. and 10' deep which is a very reasonably sized and functional size deck. There is room to add the requested additional ~175 sq. ft. deck area by going waterward across the full width of the house rather than in the concentrated 16' width proposed or by going to one or both sides of the house and thus still be able to meet setback and construct the deck by permit.

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 house and deck were constructed in compliance with the 150' OHW setback in 2000. As stated in the responses to questions 1 and 2, there is plenty of room to obtain the desired ~175 sq. ft. of additional deck area by amending the plan to spread the space across the full width of the deck or off to one or both sides of it and the house while still having a view of the lake and being able to meet all setbacks.

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

Yes () No (X)

Why or why not? The nearest residences to the west, south, and east of this house are at least 500' away. The lots to either side of this lot are unimproved. Two of the three nearby residences are year-round. The third is seasonally used. The residences to the west and east are on riparian lots and comply with the 150' OHW setback. The residence to the south is on a non-riparian lot. Allowing a lakeside deck on this lot to encroach into the 150' OHW setback with a pronounced prow when the other nearby structures meet the 150' OHW setback would not maintain the locality's conforming character – especially when there is room to add the desired additional area to the deck by permit.

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. There is no stated or observed practical difficulty in being able to meet the 150' OHW setback when enlarging the deck.

Variance Application 8-V-19 by Mark Reinarts: Lot 12, Block 1, Twin Shores Addition, Section 35, Township 141, Range 34, Lake Emma Township between Beaver Lake, a natural environment lake, and Loon Lake, a recreational development lake. Parcel 16.93.01200. Applicant is requesting the following variances: Part 1: Sections 502.2, 503, and 901 of the Shoreland Management Ordinance (SMO) for a proposed residence and deck to be placed in a bluff impact zone (BIZ) and to clear vegetation in a BIZ for the house and deck location. Part 2: Section 902 of the SMO to allow fill material for a retaining wall to be placed in a BIZ. Part 3: Sections 502.2 and 503 of the SMO for an accessory structure to be placed in a BIZ. Part 4: Section 902 of the SMO for a proposed septic system to be located in a BIZ.

Mark Reinarts, 19620 Grandview Drive, Park Rapids, MN, presented the application.

Reinarts stated as you can see I am asking for quite a number of different variances here. We have a 5.27 acre lot that is mostly bluff. We are just trying to put a small cabin with attached garage on it with a well and septic. I am trying to make every effort I can to make reasonable use of the property. If I did my research right, Mr. Bolton's RV park was on a 5.2 acre lot and he is looking for 14, we all know. I am just looking for a small 26' x 28' cabin with an attached 16' x 24' garage. I have wrestled with trying to squeeze it in between two bluffs and the road right-of-way. The application you see in front of you is my best shot at trying to stay away from the 20' road right-of-way in an attempt to at least not impede upon that. I tried to stay away from the very steep bluff to the north and I did propose having the building impede upon the bluff to the west. When I first started looking at this, I used the County's website to measure the slope of the grade, which I understand is not official. I came up with that it very well might not have been a bluff there technically. It could have been less than 30%. I had Buitenwerf's team come out and they did a field measurement and determined that it was in fact a bluff. There is a small section, about 12' wide; that is 29%. I did a lot of research and tried to twist and turn this thing in a direction to try and minimize my impact. The Board was out, looked at the property and made some comments and suggestions. I am open to some of the comments regarding moving the property more toward the road right-of-way if it means less impact to the bluff. One of the things I have is a shed currently on the property that I would like to keep. In an attempt to not know where else to put it, I went down between the two bluffs there. In reality I would much prefer to leave it up top, but my thinking was that it encroaches on the road right-of-way. I think some comments were made by Mr. Grob that possibly it could stay up top.

Johnson asked did you get a certificate of survey when it was platted?

Reinarts answered I did not receive anything, no. I only have the plat that was done, I am not sure when it was done, but it is the plat that is on record from the County. And I have found all of the stakes for the property with exception of two that are on the lake. I am not sure where they went to. They don't fall into play.

Grob asked Johnson in the context of where the road is platted and where is it?

Johnson answered actually even beyond that. I know you can't go by the GIS mapping, but just looking at the blue line, if that was to be the property line, then that is only 5' off. Do you know where your property line is where you are sitting?

Reinarts replied I do. There are two stakes.

Johnson clarified the way that curves there, you have that?

Reinarts said yes. I have the two stakes that define the beginning and the end of that curve. I know exactly where those are. I was able to take measurements from there to determine the radius of that curve. It is in fact much the way it looks. The road actually was built favoring the southern part of the road right-of-way, and in fact it looks like it encroaches over it slightly. Again, when I first started looking at it, I thought I could measure 33' from the center of the road and then I did get the plat and started looking closer and realized that I couldn't; therein lied part of the problem of why I tried to push it toward the bluff.

Grob asked because in fact the actual plat is more towards your property than the road is?

Reinarts replied correct.

Grob continued just for reference, you are 150' from Loon Lake and 300'+ from Beaver Lake, so you have plenty of setback from the lake standpoint.

Reinarts answered correct, I believe that is what is in the application. The deck, which would be the closest point, is still 155' from Loon Lake and the building is approaching 300' from Beaver Lake.

Discussion ensued about how to handle the multiple parts of the request.

Johnson asked did you specify out where that right-of-way was? That is a platted road, so it is public.

Reinarts said I spoke with people at the County to help me determine what that road was. It has been told to me and it says so in the plat map, that 66' wide path was given to the public for public use. At the same time, it doesn't meet standards for the County or the Township for standard road constructions due to mostly the grade, the hill up and down. As such, they are not maintaining it. Homeowners, myself included, put money into a fund to add gravel here and there and plow the road.

Grob asked what are you concerned about Johnson?

Johnson explained I am concerned about putting a structure maybe too close to a right-of-way or messing up if a Township wanted to adopt that road. Not knowing for sure the property line or right-of-way line except for the applicant's location. Do we need to worry about that?

Grob clarified you are concerned at the location he is proposing, and not thinking forward?

Johnson answered anywhere actually; if we move it towards it or away from it.

Grob said we could proof it with a condition that he formally establishes where the right-of-way is.

Johnson added with a survey.

Petersen asked Buitenwerf can we do it that way?

Buitenwerf replied I would recommend it that is a concern and you want to know that information, that you would require that before you would take action on the application.

Johnson said but if you don't think so.

Grob asked is that road a dead end?

Reinarts responded yes it is.

Grob stated then I am not so worried. We have allowed people to encroach into the setback from the right-of-way on some conditions.

Reinarts said I don't see the County or the Township being interested in taking ownership of it. There is nowhere to go with it. It is a dead end and it's not a dead end just because they decided to stop building it. There is nowhere else to go with it.

Petersen opened public comment. There was none.

Petersen closed public comment.

Grob made a motion to approve the variance application and accept the staff report findings of fact.

Andres asked I just have a quick question before we second the motion, do we want to put a condition that the proposed construction could not exceed the dimensions of the variance application and any expansions to the structure would require applying for another variance.

Grob asked do you mean any future expansion? There isn't much he could do. He would have to come back for anything in the future anyway, right?

Buitenwerf responded not necessarily. It would be viewed as a nonconforming structure, Section 702 of the Ordinance would apply and that would allow additions to a structure as long as the nonconforming aspects are not made more nonconforming and all of the setbacks are able to be met.

Reinarts added that covers the point she was making. For me to decide I want another 10' toward the road, I could not do that because it would be more nonconforming.

Grob clarified so you want me to put a condition on it.

Buitenwerf said he might have some elbow room in terms of right-of-way setback, but other than that it would be the height. Without some kind of condition limiting it to the 3-D dimensions provided in the application, they could potentially go higher per that section of the Ordinance.

Reinarts added as long as you bring up the question of height, I think I did spell out in my application that since I don't have a finalized drawing, I am not 100% certain what the height is going to end up at, but it will certainly be well within the height provision of the

Ordinance. I am not asking for a variance on height. I hope that doesn't become an issue if it ends up being 28 ½ feet when I wrote 28.

Grob asked the limit is 35, right?

Reinarts stated I am planning on being well below what is allowed.

Grob said Andres if you want to amend my motion for the future construction go ahead and do it.

Buitenwerf added only the person making the motion is able to amend their motion.

Grob amended the motion to approve the variance application with the following condition:

1. The proposed construction cannot exceed the dimensions specified in the variance application. Any future expansion to this structure will require applying for a variance.

Andres seconded the motion that passed 4-0.

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 house is reasonably sized and appropriate for the lot's available space constraints due to the two bluffs on it. The proposed plan seeks to minimize the number of variances required and maximize the proposed home's setbacks from the bluff crests. There is no other location on the lot where this reasonably sized house could be placed because of the extent of the two bluffs.

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 lot was created by plat in 1997 prior to the ordinance's current residential lot suitable area provision's adoption. The lot was created with the intention of it being developed as a residential dwelling use. The proposed house plan is reasonably sited on the lot in the one small location that makes the most sense for a house site because it requires the least amount of relief from the ordinance requirements. The house plan is also reasonable in scale relative to the lot's topographic and resulting usable space constraints.

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 is entirely covered by two bluffs that converge on a narrow ridge and whose impact zones largely overlap except in the far southeast middle portion of the lot where the proposed house is to be located – and then, a structure is still not able to be sited without some sort of a variance.

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

Why or why not? The adjacent two lots to the east of this lot are not developed. The lot across the road to the SE is developed with a seasonal use house of similar size to what is proposed and also located at the top of the bluff on that property in the only possible location. Bluffs exist on all of the lots in this plat with most of the lots being entirely comprised of bluff. The only thing that might stand out with the proposed house is that it will be very close to the road right-of-way on the main curve that leads down south into the bulk of the plat while the other residences are located further from the road.

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 caused by the two bluffs on the property that converge with overlapping impact zones and leave no ability to develop the lot without multiple bluff setback variances.

Petersen asked the remaining applicants if they wanted to continue tonight. The standard meeting procedure is that we would adjourn and start again tomorrow night, or we can continue.

The remaining applicants agreed to continue.

Variance Application 9-V-19 by Mark and Barbara Altringer: Part of Government Lot 8, Section 12, Township 139, Range 34, Hubbard Township on Big Stony Lake, a recreational development lake. Parcel 14.12.01000. Applicants are requesting a variance from Section 506 of the Shoreland Management Ordinance for a proposed guest cottage that exceeds the 700 sq. ft. maximum footprint allowed.

Mark and Barbara Altringer, 14716 Coyote Drive, Park Rapids, MN, presented the application.

Barbara Altringer stated we have been around this area for over 30 years enjoying several lakes in the area. About 16 years ago we found a charter cottage on a beautiful lot on Big Stony. In the 16 years we have owned it, we have tried to do whatever improvements we could on weekends and a few weeks in the summer time. With our recent retirement on April 11, something that was anticipated but not necessarily expected, we are hoping to realize another level of enjoyment by building a modest year round home to offer some of the amenities that we have gone without for quite a while. That leads us to the 768 sq. ft. existing cottage. It would be extremely useful as a guest cottage for sleeping space for kids and grandkids. It is seasonal and most of the visits are summertime. It offers

adequate space for that purpose. While it also needs some upkeep, our retirement will finally offer us the time to do so. Unique to this situation, should the cottage be unreasonably bigger than the current Ordinance allows or should it be in great disrepair, a teardown would be necessary, paving the way for possibly larger or more obtrusive structures. Or even, ironically, a new compliant guest house. Instead, we ask that you allow us to make do with existing. This will allow for a more modest year round structure to be built on another section of the property where it will have little visual effect and will also keep within the character and charm of the current setting. As we try to be good stewards of our resources, we suggest that reusing the existing cottage on our property as a guest cottage is more practical than removal. We are pursuing modifying the existing cottage for additions to add the extra facilities that we need. We met with several contractors and found that modification was rife with inherent complications, among them: lack of insulation, inability to heat year round, but the toughest to overcome was a water runoff and drainage issue. While a few contractors offered some rigged solutions, none sounded very promising. At our site visit I think one of you offered that creating berms would be a way to reconduct the water flow, and yet if we are concerned about visual impact to the surroundings, it would seem that would be more intrusive than merely leaving the cottage as is; and that is what we are asking. In general this request complies with the Shoreland Management Ordinance and the intent of the official controls. The site currently has an upgraded and inspected sanitary system. It is a lot that is compliant with size restrictions (i.e. we have 200' of lakeshore and total just over an acre). The request requires no alteration of site lines, shoreline, or vegetation, thereby incurring no impact to the essential character of the current surroundings. We are not looking to change, move, or expand anything about the guest cottage. We have much tree and brush cover lakeside and neighbor side. So visual impact is inconsequential. We feel we are asking to use the property in a reasonable manner to use the guest cottage as additional sleeping space. The variance is for the additional 68 sq. ft. of cottage space. It would seem unreasonable as well as impractical to waste resources of this sound seasonal structure by dismantling it. We believe some of the coterie would comment on how surprising it was that the foundation of the cottage was in such excellent shape having lasted 46 years so far. The current structure was the one that was here when we purchased the lot 16 years ago. Since then the Ordinance has changed allowing guest cottages. In addition, our family, who has enjoyed Hubbard County for more than 30 years, has continued to visit and grow. We have done some upkeep projects on the cottage, but only as much as our weekend visits and few summer vacations could allow. We did look for other properties within the County, but as you saw we have a beautiful setting and that is extremely desirable and hard to come by for its privacy and naturalness. So we tried to do the modifications or add on. Unique to this situation is that the attempt to circumvent water flow and add onto the existing cottage would actually have more impact, both for visibility and removal of important trees. We also consulted and secured the services of a retired architect, currently a residential designer, Bill Cowman, for his opinion and expertise in practical design. The current cottage has existed since 1973. It is not out of scale to other cottages on the lake and it is consistent with its surroundings. As stated, there will be no alteration causing any disruption in the current environment. In summary, we are asking for what we hope is a reasonable request allowing the additional square footage. The most practical approach would be to allow us to reuse instead of remove this sound seasonal structure.

As a comparison, it would seem to be a waste of resources, both current and future, to tear down this structure and build one that complies with the Ordinance, not needing a variance, which could more profoundly affect visual impacts as well as environmental impacts.

Andres clarified you stated that it is 768 sq. ft. structure, but in reality it is 960 sq. ft. because you need to include that 16' x 12' porch. You do not have to include the deck, but you do have to include that porch. So the total square footage of that cottage is 960 sq. ft.

Barbara Altringer added I guess what we were using are the walls.

Mark Altringer said we were looking at the Ordinance and the main structure. The porch was added on. It is an enclosed porch, but you can't deny that is an additional 200 sq. ft. We did visit with someone from the Environmental Services Department last year, we had them come out and we said, "Here's what we have, we know there is an Ordinance; 700 sq. ft. We get that. 768 sq. ft. is the cabin." The comment was, "You can apply for a variance. It seems it would be reasonable at this 768 sq. ft." And I said, "What about the porch?" The reply was, "Well it's already there, it's not visible from the lake and it is barely visible from the road." We are on a dead end road anyway so there are only about five other homeowners that go up and down that road anyway. In terms of impervious coverage, we have a full acre there with just 900 sq. ft. on the existing cabin and another 600 sq. ft. on the 24' x 24' garage. So we are well underneath the impervious. And even if we add 2,000 sq. ft., which is kind of the footprint that we have right now, including the garage; we would still be 7%-8% coverage on that one acre lot. Again, the idea that the cabin would stay there gives us the opportunity to build something more modest to accommodate the three kids plus eight grandkids. Otherwise, we are maybe going up to get a couple extra bedrooms upstairs. Right now, we are hoping to stay with one floor and a basement. That is the plan.

Johnson asked Buitenwerf if they were to put a roof over that deck out front and put screen around it, would that count towards the guest cabin.

Buitenwerf replied yes. The Ordinance looks at anything with a roof over it as being part of the structure.

Johnson said so my plan on closing that door off to the porch wouldn't work for discounting living area.

Grob asked how many bedrooms are in the seasonal cabin?

Altringer responded two.

Grob continued and what is the size of the cabin that you are thinking about building, the new one?

Mark Altringer answered it is up in the air right now, but everything that we worked with Bill on drawings and so forth, 1,600 sq. ft.- 1,700 sq. ft. plus a single stall garage; 16' x 24' garage. We are talking less than 2,000 sq. ft. There are budgetary considerations there as well.

Grob asked two bedrooms?

Mark Altringer answered one bedroom on the main floor and then the basement is to be finished at some future date. There is enough slope there that we believe we can get garden level windows for egress purposes so that they would be compliant bedrooms.

Grob clarified you do have living quarters upstairs in your garage right now?

Barbara Altringer stated it is just beds.

Grob said sleeping quarters?

Barbara Altringer added there is no plumbing or electricity, just beds.

Mark Altringer said there are 4' knee walls, down the center it is 13' wide x 24'.

Grob added the 960 sq. ft. is relatively excessive compared to the 700 sq. ft. This isn't our first rodeo on one like this. So it is hard to justify keeping something at that size. One of the thoughts to maybe propose would be if you removed the porch and reduced the cabin back to the 768 sq. ft. Is that something that you might be able to do?

Mark Altringer replied we had considered that at some point in time. If removing the porch wouldn't mean redoing the roof lines, because we would have to go back and cut into it, then the questions would be, if we did that and we reduce that overhang and create some sort of covered entry way. Would that count as more square footage if it is an overhang with just open air?

Barbara Altringer added when you have the picture in your head, if we cut off that back porch, the back door is right there. There would be nothing but a door. I don't even think we could put a screen door on.

Grob said many houses have steps up and you open the door right out. Buitenwerf, would a little 4' x 4' cover that is open, be considered part of the square footage, or would that be considered a normal thing that you could allow?

Buitenwerf answered the guest cottage square footage is measured by the exterior footprint of the structure. So if you add a covered bump out roof overhang over the entry way, it would not count toward the square footage.

Grob clarified it wouldn't?

Buitenwerf repeated it would not.

Grob said so a 4' overhang that would protect the door could be done.

Mark Altringer asked so any covered porch area would not be counted? So if that was an overhang that went 5' out and 5' wide, that would not count in the total square footage, we would still just be looking at the 758 sq. ft. as the approved variance?

Grob said you are not talking about an enclosed porch, just basically a roof.

Barbara Altringer stated an entry way.

Buitenwerf added it would be a cantilevered roof extension, nothing more than that.

Barbara Altringer said no walls, just a railing and steps.

Petersen added in that situation that would not be counted on that square footage then?

Buitenwerf replied correct.

Mark Altringer asked can I ask one more question with regard to the existing cabin? As I look at the other ordinances for accessory structures. There is not necessarily a limit to the amount of structures or the number of structures that you have, but what comes into play is how much impervious area is covered, is that correct?

Buitenwerf answered as far as number of accessory structures, yes it would be the impervious surface area requirement that would be the limiting factor there.

Mark Altringer continued as long as we don't violate that. My other thought has been; one of the things I want to do in retirement is wood working. One of the things I was going to do was to set up shop in the existing garage in one of those stalls. We considered that, if we couldn't keep the cabin as is, that I would move my woodshop into the cabin and use the upper loft of the garage, continue to use that as bedroom space and use the cabin as woodshop and storage. It is probably more wood shop than I need. That would just be an accessory structure then at that point in time, without any changes needing to be made. We would still have the dilemma of not adequate bedroom space, so we would be looking at something larger anyway, so I am going to be taking up more space. Those are my options that I am considering. I understand what you are saying that the 700 sq. ft. is there for a reason and I get it that we are up to 900 sq. ft. with the porch, but I have the option to continue to use it in a different fashion. So it seems like it is not a win/win for anybody.

Johnson asked on that sand beach that you have there; you said you got a permit for that?

Barbara Altringer replied I think as we were speaking, I was referring to the excavation of that area.

Johnson explained I was talking about the 10' x 20' sand beach.

Barbara Altringer said we had a permit to excavate that area and put up the rock wall, the terrace, that whole area. We attempted to grow grass; we attempted to grow anything there and just couldn't do it. We planted grass, but with the kids on it, the sun beats on it, deer like to eat there; we couldn't get anything to grow. The actual excavation thing, we did get a permit for.

Johnson added what it looks like now in that area is like a perfect squared out spot for kids to play in the sand and for somebody to sunbathe in.

Mark Altringer said yes I laid the timbers in there and we backfilled it with sand rather than the dirt.

Barbara Altringer stated we didn't change the lay of that at all from the picture you are looking at. That is flat.

Johnson continued what is there today is a sand platform inside that area.

Barbara Altringer added it was a kind of green platform in that area before, but we couldn't get the grass to take. If you are talking about the flatness, that is the same.

Johnson clarified I am just talking about the pure sand where the kids and everybody sunbathes.

Grob said the question is what did you get approved? What excavation did you get approval for?

Mark Altringer stated what you see there is what was approved. What is in questions is, is it sand versus grass-right?

Johnson said I am talking about the specific blocked off area for the recreation area that you made.

Mark Altringer said I am not sure that I understand the question. If you take a look at the picture there, there is a little bit of grass there, but where there is grass there on a flat surface is now sand.

Johnson asked there isn't a squared off area squared off with timbers, a specific sand spot made with pure sand and not one blade of grass in it?

Barbara Altringer replied it is sand because we couldn't get the grass to grow.

Mark Altringer stated when the landscape design guy set up the rock, the deal was that the land was supposed to come down from the cabin, go up to rock and around and was supposed to be kind of a French drain thing. As it comes around there and runs into that grass, the sand actually does a better job of catching that rain runoff than the grass did. The timbers there keep the sand from spilling into the lake.

Grob asked is that a violation to have that there?

Buitenwerf replied yes, I think that is what Johnson is getting at is that the Ordinance does not allow a sand beach area to be created without getting a variance to do so.

Barbara Altringer clarified you are talking about the sand? Because the actual area we created was approved by variance.

Buitenwerf said the rip rap and the retaining wall were approved with a shoreland alteration permit.

Barbara Altringer added so it is the sand.

Buitenwerf replied correct.

Andres said what Johnson was trying to clarify is that you basically created a sand beach for your area once you put in how ever many cubic yards of sand that you had brought in. You had sand brought in to create a sandy beach.

Petersen opened public comment. There was none.

Petersen closed public comment.

Petersen stated I am going to go back to your existing cabin here, let's talk about the option Grob talked about. What do you think about the possibility of taking off the porch? You were talking about repurposing that building, I think at the very least if you were to do that to make it conform, we would have to make sure that anything inside the living structure would have to be removed. It would have to be truly a shop or accessory building to be conforming. The other thing, I asked out there about your block work on that building. My thought was just simply wondering if there were footings, with the idea if you were to remodel it, there might be some suitable foundation there to do some remodeling on; if it had footings. I am not sure what the pictures you sent showed, I wasn't really clear on that. I think you were indicating that there were footings?

Mark Altringer clarified shallow footings. The picture there, there is a rod going through there and there is one on the right hand side. That is the inside of the cabin under the crawlspace and that is the footing there where the tape measure is sitting. It is wider than the block there. I attempted to show that with the stake going this way and that way from the other side that there clearly is no footing underneath. There is another picture there, the next one down, you can see the white stake coming from the other side and you can see the footing is sitting there 26". About from my rod from the inside going in is only about another 8" or 9", so there is about 10" of footing, that is all there is.

Petersen said to me, the options are, I don't know if you have had a formal evaluation of whether or not you could remodel it, if that would be to your tastes or not. It could be extensive, maybe more extensive than you would like, but what Grob had eluded to earlier is that we have run into this and we are trying to be consistent with people on keeping that guest cabin size. It is a struggle, but that is a thought that I had entertained also was if you took the porch off. If you really want to use it as a guest cabin, then you are coming almost into conformity. It would be something that we might look at. I guess we would need some direction from you. Then there is also the issue that I don't think anybody has addressed, if you had that you still have living space, right now, up above your garage. That would have to go away.

Barbara Altringer added which is what we had said in our narrative that we sent in. We would decommission that and use it as storage.

Petersen continued what are your thoughts on taking that porch off?

Mark Altringer said if that is the recommendation for approval, then that is what we would live with. I am not surprised by that and I understand the rationale behind it, because somebody comes in with an 840 sq. ft. cabin and says you approved 900 sq. ft. I get it. I was more concerned about being able to have something in terms of a covered entry. So, if we had a variance approved for that, we would work with that.

Petersen asked Buitenwerf procedurally, is this another one where we would deny it as it sits and come back at it with conditions of the porch removal? Is that how we should proceed on it?

Buitenwerf agreed.

Andres added I just wanted to explain, one of the questions that we have to answer for the findings of fact is, "Is the variance in harmony with the general purposes and intent of the official controls?" and because you do have other permissible options, is why we are struggling. Because you can add on to it or you can take off to help accommodate. We just have to answer affirmative to all of these questions in order to get this approved, so we have to address why we agree or why we don't.

Petersen asked does that make sense?

Mark Altringer replied it does. In terms of adding on, and that is why it is a little bit of a grey area there, again Andres you remember the slope of that property ran right to that back entry way of the cabin. As a matter of fact, ground level, there is a lip to the side walk. All that water comes between the house and the garage, not all, but a lot of it. Some of it goes around, so to add on we would have to berm up quite a bit and then push stuff around. It is going to come down that driveway and going to end up in the neighbor's property. He already has runoff issues. We are looking at the impact of that water coming and now with a larger structure, having even more. Some will go north of the house and some will go south of the house. Now we will end up pushing everything south of the house. That is why we looked at the water runoff issue, in terms of adding on.

Petersen made a motion to deny the variance application as presented and to accept the staff report findings of fact.

Grob seconded the motion that passed 4-0.

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 proposed guest cottage is 960 sq. ft. in footprint which is 37% greater than the 700 sq. ft. maximum footprint allowed. There are permissible alternatives available for adding a guest cottage to the property such as converting the existing second floor space above the garage or building a new guest cottage and enlarging the existing residence for any needed additional living space. Allowing a guest cottage to be this much over the 700 sq. ft. maximum footprint when there are no hindrances on the lot to complying with this part of the ordinance would not be in harmony with the ordinance's intent.

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

Yes () No (X)

Why or why not? As stated in the response to question 1, the 45,167 sq. ft. lot which is ~210' wide has no physical obstructions preventing a guest cottage from being built by permit or the existing residence from being added onto by permit to provide any additional needed living space. Proposing a new residence plus converting the existing 960 sq. ft. residence is not reasonable as that essentially would result in two primary residences being on the lot.

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? As mentioned in the response to question 2, the lot is amply large to allow the existing residence to be added onto and a new guest cottage to be constructed. The "need" appears to be more of a "want" of the applicants.

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

Yes () No (X)

Why or why not? The neighborhood is comprised of seasonal residential properties on which there are primary residences with either attached or detached garages, but no apparent guest cottages. The lot sizes vary with this lot being fairly average in terms of size for the locality. The residences are similar in size to the residence on this lot. Allowing this residence to become a guest cottage and then a new primary residence to be constructed on the lot would result in a dwelling unit density and size that would be larger than what exists in the neighborhood and thus would stand out.

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, but appear to be a key factor.

Discussion ensued about developing the new motion.

Petersen made a motion to approve using the existing residence as a guest cottage with the following conditions:

1. The 12' x 16' porch on the rear (non-lakeward side) of the residence must be removed.
2. The existing use of the garage as living space must be discontinued.

Grob seconded the motion that passed 4-0.

The Board provided answers to the findings of fact for questions 1-4 and adopted the staff report finding for question 5.

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? It is in harmony with the general purposes and intent of controls given that it is an existing building. By removing the 16'x12' porch on the rear of the building we come into harmony with the intent of the official controls at 768 sq. ft.

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? Given that there is an existing building there, it is reasonable to remodel it, bringing it in to compliance and allow them to build a modest year round home.

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? We are asking the applicants to modify the existing cabin to comply with the 700 sq. ft. Ordinance. It has been in existence since 1969.

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

Yes (X) No ()

Why or why not? It is made up of seasonal residential properties and the guest cabin would continue to be seasonal residential.

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, but appear to be a key factor.

Variance Application 10-V-19 by Brian and Sara Halik: Part of Government Lot 2, Section 20, Township 140, Range 33, Nevis Township on Lake Belle Taine, a recreational development lake. Parcels 21.20.01400 and 21.20.01500. Applicants are requesting a variance from Section 702 of the Shoreland Management Ordinance for a proposed addition to a nonconforming residence located in the shore impact zone.

Brian Halik, 23618 County Road 80, Nevis, MN, presented the application.

Halik stated we would like to put an addition onto the home going away from the lake. Being in the current shore impact zone, we would like to add on away from it. We did look at going the other direction and we would have actually preferred to go that way, but being that it was not allowable for the grading, we chose to come back.

Andres added the picture that staff has on the monitor, down by your 24' x 28' garage and your proposed 26' x 24' garage, what is the distance between those two buildings?

Halik replied we talked about that on site. We can move that garage to the back. We have plenty of impervious surface and we are willing to do that.

Andres clarified currently with this proposal; you are going to keep it there?

Halik responded we would move it.

Andres asked you are definitely going to move it?

Halik agreed. It was discussed onsite as well.

Andres said I must have missed that.

Halik clarified we were in different places.

Grob added when I looked in the garage, what was in the garage were ATVs and stuff. It was not like cars where you need space to get in and out.

Halik replied we had just moved in the winter time, in December, we literally shoved everything we could get into that garage.

Grob said so what was in there, you didn't need the space to answer that question.

Andres explained my concern was that I didn't know how you were going to get a car in between that space.

Petersen opened public comment. There was none.

Petersen closed public comment.

Andres asked where is the well located on this property?

Halik answered it is a sand point in my basement.

Grob added you can plan on having that replaced someday.

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

1. Only the drawing dimensions shown on the application plan are what is approved. Only this plan can be constructed (and nothing else) without subsequent amendment to the variance.

Petersen seconded the motion that passed 4-0.

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 addition will be located on the rear (non-lakeward) of the existing residence which gets it as far away from the lake as possible where it will not be visible from the lake. The addition will meet all other setbacks. The alternative location for an addition-which is on the east side of the residence-would require a significant amount of grading within the 100' OHW setback which is not desirable. The house is in good repair, has a walkout basement, and was recently remodeled. Given this info and the size of the proposed addition relative to the existing house size, it does not make sense to look at moving the structure back. If the structure was 4' further from the OHW, the addition could be constructed by permit.

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 house is a modest ~1,040 sq. ft. in size. The proposed addition will provide an attached garage and additional living space needed for two additional family members that will be residing with the applicants. Placing the addition on the rear of the structure away from the lake is very much in line with the ordinance intent.

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

Yes (X) No ()

Why or why not? The existing house was constructed in 1969 – two years before the Shoreland Ordinance was enacted-in the shore impact zone. The house is in good condition, has a walkout basement, and was recently remodeled. The size of the addition relative to the existing house size and these other listed factors do not make it reasonable to require the structure to be moved back to a conforming 100' OHW setback. If the house was 4' further from the OHW, the proposed addition could be constructed by permit.

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

Yes (X) No ()

Why or why not? This property consists of two substandard lots that are similar in size to four adjacent lots to the west that appear to have been created at the same time. The adjacent residential lot to the east is roughly twice the size of the

applicants' lot and the next two lots to the east fall in-between the size of the applicants' lot and the nearest neighboring lot to the east. All these lots are being used as seasonal residences aside from the applicants' lot which is a year-round residence. The neighboring properties have similarly sized residences on them that range from meeting the 100' OHW setback to falling within the setback, but outside of the shore impact zone. The homes on the lots to the west are similar in size to the existing residence. The home on the adjacent lot to the east is nearly twice the size of the existing residence and the house on the next lot to the east falls in-between the applicants' house and the aforementioned house immediately to the east. Many of the neighboring lots have accessory structures on them similar to the existing detached garage on this lot. To the south of this lot and neighboring lots lies County Highway 80, a narrow (~130") undeveloped strip of land, and then State Highway 34 to the south.

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 difficult is caused by the existing residence, which predates the ordinance, being located in the shore impact zone and the ordinance requiring a variance in order to add onto the structure.

Variance 98-43 revocation consideration.

No applicant was present.

Buitenwerf stated Mr. Hunke approached the County with this request. He is pursuing a conservation easement for his property and the easement holder desires that the variance be removed from the property so it would not conflict with their objectives for the easement. That is the reason for this being presented to you. The County is totally supportive of the housekeeping capability of cleaning up the old variance. That said for background, I would say it would be appropriate to ask for public comment.

Petersen opened for public comment. There was none.

Petersen closed public comment.

Buitenwerf added what the process would be, with the advice of legal counsel, would be to have the Board make a motion to adopt the draft resolution that was included in your packet, to solidify the waiver of the variance. The resolution as well as the waiver document that Mr. Hunke signed would be recorded as a simple document with the Recorder's office to memorialize the revocation.

Grob made a motion to approve the resolution and accepting the waiver of Variance 98-43 from Donald Hunke and revoking said variance.

Petersen seconded the motion that carried unanimously 4-0.

Miscellaneous: Buitenwerf stated we have a couple variances so far for June. I am sure we will have more because the application deadline is not until next Tuesday and then we will have the tabled matter from the Planning Commission on the June agenda now. The other item is that I have heard from Commissioner VanKempen this morning that he has a party selected for his replacement on the PC/BOA, so we will be taking action on that at tomorrow's Board meeting and once that action is complete, we should be at full capacity in June.

Grob asked can you give us any hints on who the person is?

Buitenwerf answered it is in Commissioner VanKempen's District. It is not mine to release yet.

Communications:

Adjournment:

Petersen made the motion to adjourn.

Andres seconded the motion.

The motion carried unanimously 4 – 0.

The meeting adjourned at 10:48 p.m.

Respectfully submitted,

Staci Harvey

Recording Secretary