

HUBBARD COUNTY

Planning Commission/Board of Adjustment Meeting Minutes

6:00 p.m. on Monday, November 23, 2020

The Hubbard County Planning Commission/Board of Adjustment (PC/BOA) held its regular public hearing and meeting on Monday, November 23, 2020 at 6:00 p.m. remotely by electronic means with one or more PC/BOA members present in the Hubbard County Government Center – County Board Room # 324.

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

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

Board of Adjustment:

Approval of Minutes: October 26, 2020 meeting.

Kovacovich made a motion to approve the minutes as presented.

Johnson seconded the motion that carried unanimously 5 – 0.

Old Business: None.

New Business:

[Variance Application 42-V-20 by Pine Haven Christian Assembly](#): Lots 15-21, Block A, Lots 1-9, Block B, Lots 1-4, Block C, Lot 13 and 15, Block D, Pine Haven Beach, Section 17, Township 139, Range 34, Hubbard Township on Long Lake, a recreational development lake. Parcels 14.38.01150 and 14.38.02070. Applicant is requesting a variance from Section 701 of the Shoreland Management Ordinance for alteration, expansion, and addition to structures devoted to a nonconforming use.

Joe Cachiaras, authorized agent, 16508 State 87, Park Rapids, MN, presented the application.

Cachiaras stated we would like to put a deck on the side of the existing lodge. It is the oldest building that we have at the camp. It would be a handicap accessible deck extending the entire length of the lodge. We would build it so that it would not be encroaching any closer to the lake than the existing building. It is not as far from the lake as it needs to be, so that is why we are here.

Andres added although the variance application contains two parts, I think that we can hear the application as one and address any questions or comments on both structures as needed. Do the Board members agree?

Board members agreed.

Andres opened for public comment.

No public comment was given.

Andres closed public comment.

Andres stated during the lot viewal I noticed the gutters on the current structure do not adequately route any of that stormwater away from the lake. Do you plan on putting gutters on this structure if your application is approved?

Cachiaras replied we can. I would want to know the best place to run the water. There is a pretty steady incline towards the lake where the water is going to want to go. We could put some rock to try to slow some of that down. There are gutters on the upper part, but not on that lower shed roof.

Andres continued I noticed that. That is the one that I was mainly looking at. The watershed strictly goes down and heads right towards the lake. I was looking towards gutters on that single story part and maybe the water could exit towards the ramp side of the deck.

Cachiaras answered that is something we would be happy to do. I would add, if it would be of any benefit, on the drawing it shows the stairs going towards the lake. We could maybe make them go to the east so that they don't encroach the lake as much.

Andres added I am not concerned with the steps going down from the landing.

Kovacovich asked do you have any kind of vegetated buffer between that building and the shoreline right now, or is that all being mowed?

Cachiaras replied it is mowed. There is one row of rock between the grass and the shore. For the most part, it is grass.

Kovacovich asked would you be opposed to, as a condition for putting that deck in and having more impervious surface, establishing a 10' – 15' "no mow zone" towards the lake?

Cachiaras asked how much are you thinking? The whole width of the lodge, or just the length of the deck? How much are you thinking?

Kovacovich replied I was thinking the length of the lodge and including the deck.

Cachiaras said we would really like to put the deck on. We would need some direction so that we know just what it was that you would like to see. We would definitely be open to

that. Where you see the docks coming out, it would be hard for us to have that be vegetated because there is a path going down to those docks. Of the other part, it is not a place that people go down to swim or anything like that. We would definitely be agreeable to that. We would like to have some directions to just what that would mean.

Kovacovich said if we do make that a condition, you could work with the Environmental Services Office and they would help you on how that should be handled.

Andres said during the lot viewals I noticed several mature pine trees that drop needles in that area. I wasn't sure how much grass actually grew under foot between the lodge and the shoreline, that 48' stretch. I thought the same as Kovacovich, as far as a "no-mow zone" or maybe just some low lying shrubbery being placed around the north and east side of the proposed deck to help with some of that runoff. They do have several mature pine trees and they have about eight or ten newly established pine trees growing in that area as well that are about four to seven feet tall.

Petersen asked is your suggestion perhaps the shrubbery, or vegetative buffer, in place of the "no-mow zone" because you are thinking that grass is not going to grow there?

Andres agreed. It is such a shady lot from all of those mature pine trees. They did have a small section of taller vegetation right at the shoreline that was not mowed. There did not seem to be much grass growing under foot because of the pine needles. Low lying shrubbery around the edge of the deck might be a little more conducive for that.

Grob added that was my observation with the grass growing there and the soil. Whether you mow or not, you are not going to get much resistance to water running off. I think a gutter on that shed roof area directed towards the south and running the roof water to the back side of the building would be much more effective than trying to do a "no-mow zone". Shrubs along the lake would help, but I think the "no-mow zone" would not have much impact at all.

Andres stated they definitely have to have some sort of gutter on that single story. The runoff goes along the entire front of that 40' x 40' structure and just goes right down. When you say the gutters towards the south, are you meaning that the downspout should be on the ramp side?

Cachiaras commented if that is what you are suggesting, we could do that. We would make sure that water exited on that south side.

Andres added on the Curtis building, I noticed where the deck expansion and stairs would be very beneficial for the patrons' safety compared to the existing landing that they have. Since it is 385' from the ordinary high water mark, I am supportive of that as well.

Andres asked Cachiaras do you understand the possible conditions that we might place if this goes to approval?

Cachiaras replied yes.

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

1. Approval is only for the two decks as requested in the variance application.
2. Rain gutters must be placed on the east side of “The Lodge” with the runoff directed towards the south side of the structure.
3. A vegetative buffer consisting of native shrubs must be planted either around the proposed deck or between said deck and the lakeshore per Environmental Services Department recommendations.

Petersen seconded the motion that passed 5 – 0.

The Board adopted the staff report findings of fact.

Findings of Fact

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

Yes (X) No ()

Why or why not? Neither deck will cause any noticeable change to the nonconforming use. The deck on the Curtis A and B structure will be over 385’ from the OHW. While the deck on the lodge is much closer, the applicants are placing it on the side of the lodge and outside the shore impact zone in an effort to comply with the ordinance’s intent as much as possible.

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? Replacing the deteriorating deck on the Curtis A and B structure and adding a deck to the side of the lodge to allow campers to more fully utilize and enjoy the lodge space and atmosphere are reasonable uses with decks being common accessory items on shoreland property.

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 camp use of the property predates the Shoreland Management Ordinance by many decades and is thus a nonconforming use – although such a use may now seek to obtain a conditional use permit. The ordinance requires that any structural addition to a nonconforming use go through a variance process for zoning approval.

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

Yes (X) No ()

Why or why not? The camp has operated in this neighborhood for many decades without any issues or complaints. The two proposed decks will have a negligible effect on the property's look and feel, let alone the locality's look and feel. The lots surrounding the camp are in residential use whether seasonal or year-round and should not be negatively affected by the two proposed decks.

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 ordinance requiring a variance for structural additions to structures devoted to a nonconforming use.

Variance Application 43-V-20 by David and Peggy Engh: Part of Government Lot 4, Section 1, Township 145, Range 32, Farden Township on Wolf Lake, a recreational development lake. Parcel 07.01.00800. Applicants are requesting a variance from Section 702 of the Shoreland Management Ordinance for a proposed addition to a nonconforming structure located in a shore impact zone.

David Engh, 298 Floral Drive W, Shoreview, MN 55126, presented the application.

Engh stated what we are proposing is to add a three-season porch to the south side of the cabin. The cabins have been in our family for at least 75 years. We are proposing this three-season porch and a small addition to extend the bathroom. The bathroom addition would allow us to have a shower. Our sewer system is self-contained with two 1,000 gallon holding tanks. All of the additional water from that shower will go there. I would like to point out that the north cabin is about 88' from the south property line. The remaining 140' to the end of our lot is heavily wooded along the lakeshore. We do have a garage, but when looking at it from the lake, the garage is barely visible. Roughly 35% – 40% of our lot looks to be undeveloped from the lakeside. The cabin itself, structurally, is like cabins were built back in the day. It rests on concrete pads with posts. The addition will have concrete footings. The roof will be supported, not by the cabin, but by this addition itself. As far as slope from the highest part, it is about 19" of slope from the floor of the cabin, which is where the bathroom is on the east side. It is about 19" to the lower extremity of our proposed addition. The ground is sloped by the lake. As you proceed north, the lakeshore in our yard rises up. A few years ago we had an ice flow hit the shore. The entire length of the shoreline raised up. We removed quite a bit of it in front of the cabins. It doesn't slope towards the lake anymore. We are thinking that we might make the floor of the addition concrete, but that is not entirely decided yet.

Grob stated there are two cabins there. Do you own both of those cabins?

Engh replied yes. Those were part of the original purchase in 1945 by my wife's parents.

Grob asked how many bedrooms are in each cabin?

Engh answered the north cabin has 2 bedrooms. The south cabin has 2 bedrooms on the main floor and then a loft. The loft has a bed in it, but a really low ceiling that only allows for sleeping.

Grob asked when you say south, is it the cabin on the left?

Engh responded that is correct.

Grob asked you have 2 bedrooms in each cabin and a loft in one of them?

Engh answered yes, the south cabin has the loft.

Grob continued and your garage that was built with a variance, what do you store up above?

Engh replied up above we have a rec room. We have a television and some chairs up there. We also have some storage.

Grob asked Buitenwerf I think the original variance indicated no living space on the second floor of the garage? Would a rec room, TV, and things like that make it considered living space?

Buitenwerf explained it depends on what the intent was back then, whether they meant sleeping space or not. That I am not sure of.

Engh stated there is no sleeping space up there. I suppose someone could sleep there, but we don't have any facilities for that, just chairs and a TV.

Grob added what was the original intent with the variance? When it says no living space, I would assume it was storage area only, not active gathering area? Buitenwerf, can you recall what original discussions were on that?

Buitenwerf stated I do not believe that I was at the County then, let me check here.

Andres opened for public comment.

No public comment was given.

Andres closed public comment.

Johnson asked where is your existing bathroom in relationship to the shower addition that you are proposing in your variance?

Engh explained on the cabin that we are proposing the addition, there is an area that bumps out on the southeast side. That is the current bathroom. It is 5' x 6'. We are going to add 6' 8" so that it lines up with the three-season porch. That allows us to do our plumbing and drain to the holding tank.

Johnson asked does the existing bathroom have a shower right now?

Engh answered it does not. That is why we are doing the addition.

Buitenwerf added here is the variance that was approved in 2003 for the garage. That was 2 years before I started with the County, so I can't give you anything more than what you see here and the motion.

Engh added if I recall from our application at that time, we were hoping that we could have a full bathroom in the garage, but that was rejected so we have not done that. I don't recall if we talked about any other development. That was slowly added over the years, a little something added every year.

Andres questioned in that garage there are no water or bathroom facilities?

Engh replied that is correct.

Petersen asked is there heat in the area above your garage?

Engh answered no. In the fall we bring in a portable electric heater. If someone is watching TV, they can warm up a little bit.

Andres noted during the lot viewals, as the applicant stated, there is somewhat of a natural berm occurring between the shoreline and the cabin from a previous ice ridge. It does kind of increase as you go towards the wooded area. I also noticed it appears that it is being mowed all of the way to the shoreline.

Engh replied that is correct.

Andres added there are a few possible conditions that I was considering. I would like to visit with you about them. If the existing cabin is ever structurally reconstructed, I would request that it be moved out of the shore impact zone. Do you understand that?

Engh said yes.

Andres continued mentioning that vegetative area, I did notice the slight incline with the natural berm occurring because of the ice ridge. Some of us were thinking about a possible "no-mow zone" in that area as well, between the cabin and the shoreline, to offset this addition. Do you have any concerns about that if we were to impose a "no-mow zone"?

Engh replied I don't think so.

Andres commented I did also notice that there are no gutters on the cabin. Are you willing to put gutters on the addition?

Engh said we are certainly willing. I guess the question would be how would we keep the water from going to the lake?

Andres added I did notice in that back area of the cabin, it does go down a little bit further towards the wooded area. If anything could be directed that way, it does slope slightly away from the lake. You have it kind of fenced off, that area slopes just a little bit more towards the back. Maybe something that direction would be ideal.

Engh responded it would be no problem putting a gutter on the northern part of the cabin, but then we have a gable roof and the proposed three-season porch. Any gutter going towards that north direction would have to go across the gable roof. I am not exactly sure how we would manage that.

Grob clarified your expansion of the bathroom, as I look at this picture and you see the roof and the door, you are just extending that out and you are going to keep that same roofline on that part of the expansion?

Engh replied that is correct.

Grob asked what is the direction of the roof on the screen porch?

Engh responded it will slope toward the south, away from the cabin.

Grob stated that is towards the other cabin.

Engh agreed.

Grob stated I did note that there is a pretty good berm in front of the cabin towards the lake, especially to the east. I think a gutter would be appropriate on the east side. I think the water would run to the east and be kept from going into the lake. I think from the cabin to the west to about where the dock starts, that could be a "no-mow zone". The rest wouldn't have to be because of the berm.

Andres asked Engh you do understand the conditions if we are to move forward? If the existing cabin is ever structurally reconstructed, it is to be moved out of the shore impact zone, as Grob mentioned the "no-mow zone", and the gutters being placed on the cabin to direct that stormwater away from the lake.

Engh clarified the gutters would be on the side facing the lake? On the north half of the cabin there is a slope toward the lake on the roof. We could easily put a gutter there going over to the area where the berm is. As far as gutters on the addition, I am not sure how we would manage to direct water away from the lake there. We would be going across a gable roof, either going towards the east or going towards the north.

Grob explained I only proposed a gutter on the north side.

Engh said ok. We can do that.

Grob stated it doesn't say anything in that variance about living quarters. All it says is that it can't have water, septic, etc. It does not in any way restrict it to be used as a gathering room for a TV. That would not be in violation of the previous variance. Is that your conclusion, Buitenwerf?

Buitenwerf said yes it is, Grob.

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

1. If the existing cabin that is the subject of this variance is ever reconstructed, the cabin is to be moved outside of the shore impact zone.
2. A 20' deep "no-mow zone" must be created and maintained between the cabin and the shoreline, with its south boundary starting at the south edge of the screen porch and the north boundary coinciding with the north edge of the cabin.
3. Rain gutters must be placed on the north side of the cabin with the downspouts directing the water towards the wooded area.

Grob seconded the motion that passed 5 – 0.

The Board adopted the staff report findings of fact.

Findings of Fact

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

Yes (X) No ()

Why or why not? Conditions are being placed on this variance to require it to be moved outside of the shore impact zone if the existing cabin is ever to be structurally reconstructed and that a vegetative buffer be installed between the cabin and shoreline to offset the addition's aesthetic and stormwater (via the additional impervious surface area) impacts. The cabin predates the ordinance and is in good structural condition so it does not make sense to require that it be moved back from the ordinary high water mark given the addition's scope relative to the existing cabin is a 50% increase in square footage.

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? Enlarging a 600 sq. ft. cabin to just under 900 sq. ft. for additional living space in the form of a three-season porch and bathroom 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 cabin that is the subject of the variance request was built before the ordinance at a nonconforming setback in the shore impact zone (SIZ). The ordinance prohibits expansions to structures in the SIZ unless a variance from this requirement is obtained.

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

Why or why not? The locality is a mixture of seasonal and year-round residential use properties. The lots to the north of this lot are larger while the 50' wide platted lots to the southwest are much smaller. The residences on the neighboring lots are at similar lake setbacks and of similar size to the cabins on the subject lot.

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 structure being built before the ordinance in the shore impact zone.

Variance Application 44-V-20 by Petersburg Outing Club: Lots 13, 14, and part of 15, Pleasant View, Section 12, Township 145, Range 34, Rockwood Township on Lake Plantagenet, a recreational development lake. Parcels 22.37.02100, 22.37.02200, and 22.37.40300. Applicant is requesting a variance from Sections 503, 701, 702, and 703 of the Shoreland Management Ordinance for proposed expansion and alteration of a nonconforming structure and a proposed attached lakeside deck located in a bluff impact zone that is part of a nonconforming use.

Brad Gilbertson, authorized agent, 50676 Woodcamp Drive, Bemidji, presented the application.

Gilbertson stated I would like an addition on my cabin. It is not square or rectangle and I would like to fill it in, adding an 8' x 11' addition to the living area. I would like to put a different roof with a larger pitch on it. It has been added onto a few times and the roof is almost flat. I would like to turn the roof. Instead of it draining towards the lake with the peak running north and south, I would like to run it east to west with a 6/12 pitch on it. I would like to add a 10' x 30' deck on the east side, the lakeside of the cabin.

Johnson asked on the path that goes down to the lake, is that specifically used for your place, or is that dock supposed to be the main dock for everyone?

Gilbertson explained it is the main dock for the 18 members of the Petersburg Outing Club, so it is used by all of us.

Johnson asked what about the path that goes down?

Gilbertson clarified the one where I am proposing the deck? That gets very little use. I believe that is from some of the older camp members that had boat houses down there back in the days, the ice has pushed up all of that. I don't see anybody using it much. It is the camp's path, not mine.

Andres opened for public comment.

Ashley Anderson, 1417 Irvine Ave NW, Bemidji, stated I received the variance request. We are just trying to figure out what kind of docking they were trying to do down to the lake. We recently purchased a property that is adjacent to part of the Petersburg Outing Club. My question was if they were going to be doing any kind of shoreland development directly in front of that small sliver that is there?

Andres explained this request is strictly on the house, the deck, and the bluff impact zone. Nothing around the shoreline.

Andres closed public comment.

Johnson asked Buitenwerf does this structure predate the ordinance?

Buitenwerf replied yes it does.

Johnson continued is there a poured basement under the structure?

Gilbertson replied there is roughly a 10' x 10' area that appears to be a poured room. I am not really sure what it was supposed to be for, maybe a storm cellar. The only thing in that room right now is a water heater.

Johnson added that is what I thought it was for, utilities. I didn't know how deep it was.

Gilbertson said I believe the original intent was for it to be a storm shelter. It is hard to access because of where the entrance is on it. The only thing in it is one water heater.

Grob mentioned there are covenants that dictate what you can and cannot do in the Petersburg Club. How much property do you own around the building? Are there any alternate locations on the club's property that you could rebuild, rather than encroaching so much into the bluff impact zone?

Gilbertson said I guess that I never looked at that option. I bought this cabin hoping to clean it up and make it a little more livable. When I got to looking at it, the roof being as flat as it is, I would like to turn the roof so that the water runs away from the lake. I have never asked about moving to a different spot on the grounds. I don't know of any place.

Andres stated I had the same question as Grob. I wasn't sure if you were able to relocate that structure at least out of that bluff impact zone.

Gilbertson said not that I am aware of, no.

Grob asked besides the screen porch, the addition that you are going to do, what is going to be in that squared off part that you want to add?

Gilbertson explained I was looking to add closets and lay out the kitchen a little different to increase the living space, make it square, and a little easier to run the roof line.

Grob asked are you going to be doing any construction changes on the inside besides that bump-out? Are you going to redo any internal walls?

Gilbertson said the plan would be to change some of the walls inside so that you don't have to go through the bedroom to get to the bathroom. I would take a lot of the walls out and make it more of a two room cabin with a bathroom.

Grob clarified so you are basically rebuilding the inside of the house.

Gilbertson stated you could see it that way.

Johnson asked would you change that to year-round use?

Gilbertson replied no, just a seasonal use. The water and sewer system wouldn't support year-round use with what they have there. Our plans are just for spring, fall, and summer use.

Johnson said the way that I feel about it, I am not in favor of the deck on the lakeside. I am not opposed to the 8' x 11' addition in the back. I think gutters could handle the roof. I think the shore looks pretty good except for that one path that should be planted full of trees and have the metal post taken out. That is where I am sitting.

Petersen asked Johnson when you say gutters, are you suggesting that if that addition were put on there in the back corner, that the roof line stay the same?

Johnson explained what I am thinking is that he could leave it the way it is and gutter it. If he is going to tear that roof off, with the expense of doing that, I think he could move it back a little bit from that bluff. It wouldn't be that big of a job really if he is already tearing the roof off.

Petersen stated I am not sure what space he would have to move it. I am opposed to the deck. If a new roof was put on there with the ridge perpendicular to the lake, that it would be easy to gutter and run the water away from the lake. That would be an improvement for runoff to the lake. I guess I would not be opposed to the addition and the new roof. Does it really make a difference what is going on inside?

Kovacovich added I certainly don't approve of encroaching into that bluff with the deck. At the point where the roof is taken off and everything is reconfigured, you are starting from zero. If you are already going through that trouble, this cabin should be moving back further away from that bluff line. As the request for the variance goes right now, I would oppose both portions of it.

Johnson asked the way it sits right now, he could rebuild it exactly the way it is, brand new?

Buitenwerf replied yes, that is correct.

Kovacovich said that would exclude any addition, correct?

Buitenwerf replied that also is correct.

Johnson said I don't see where the 8' x 11' addition would harm the lake at all. That doesn't bother me.

Grob said I am wavering two ways. If we approve the addition in the back, we might want to put the condition on that any future requests for changes or additions would require that it be moved out of the bluff zone. We would want to put constraints on what could be done in the future. Once you redo it, it is more permanent and has a new footprint to which you could build to in the future. I don't think that we would want it expanded beyond that.

Andres agreed. I am not opposed to the 8' x 11' addition either. The changing of the roofline does have benefits being perpendicular with the watershed. I am not in favor of the lakeside deck. At this time they have an enclosed porch on that entire side.

Andres continued do you understand the possible approving of this with the condition that gutters be placed on the new roof line with the watershed directed away from the lake on that side? The other condition would be that if it ever has to be structurally reconstructed it is to be moved out of the bluff impact zone. Do you understand those two conditions?

Gilbertson asked what do you mean by structurally reconstructed? If there was a fire, would it have to be moved?

Grob explained if they wanted to rebuild to the same footprint, they would have to move the cabin out the bluff impact zone.

Gilbertson asked if a tornado or weather came through, you could still rebuild it, couldn't you?

Grob stated to the same footprint.

Buitenwerf explained the ordinance would allow it to be rebuilt with a permit if a weather event damaged the structure, so long as the permit for the replacement was issued within six months of the event. That is a separate matter from the possibility of the Board putting a condition on any approval tonight. If they were to do so, that condition would supersede what I just stated.

Grob clarified if a weather event would destroy the cabin, with that condition it would have to be rebuilt out of the bluff impact zone?

Buitenwerf replied that is correct if you were to make a condition on any approval, unless you specifically exempt weather events.

Petersen asked Grob when you recommended that condition, were you talking about no future construction, as in another addition to that? Or are you are saying that if a weather event happened and the place was demolished, that they could not rebuild it?

Grob explained that would be my intent. This structure is in gross violation of our Shoreland Management Ordinance. It is right on the edge of that bluff. It is really misplaced across the board. Our objective, in general, has been to try to move structures out of the shore impact zone, or in this case the bluff impact zone. I think if we allow it to be expanded and end up with a larger footprint, I think it is fair to put the constraints that it cannot be expanded and if at any point has to be reconstructed it has to be moved. I don't know what the covenants are for the Petersburg Outing Club. If there is other space to build. I think considering the incursion on our Shoreland Management Ordinance, I think that would be fair.

Petersen asked do we have to consider whether there is a spot to be moved in this development, is that something that is our concern?

Grob answered I don't know. There are other spaces. If you look at the layout of the property.

Petersen continued I am just wondering about the legality. Would the applicant have an option if that were the case?

Grob said I don't know. What do the covenants say with regards to this, does anybody know?

Gilbertson responded I don't have an answer for that. I believe that if I couldn't rebuild the structure, I would have to go to them and see if they would let me build somewhere else, if something is available.

Grob asked when you bought the property, did they provide you with a set of covenants?

Gilbertson replied it does not say anything to that effect. I was looking to add onto the back of the cabin to make it a little bigger. They absolutely said no way because it would block the view to the lake of other property owners. I never even asked for that. I believe the only land that is left to build a cabin is where the septic system is. I don't think there would be any place to build one.

Andres mentioned I am not sure what his options are. I did note the septic on the side there as well. Even trying to move the cabin out of the bluff impact zone, I wasn't sure how much he could even move it. If we were talking 6' or 10'? That seemed like a lot of work for just a little footage.

Grob stated I was not thinking about moving it back. I don't think there is enough room between it and the cabin next to it to be able to get it out of the bluff impact zone. I was thinking somewhere else on the property.

Gilbertson explained there is not enough room to move it out of the bluff impact zone. The neighbor's cabin is in the way.

Johnson said I think having a condition that if he loses it by fire or weather that he cannot rebuild is too restrictive. I am not in favor of that.

Andres stated I agree with Johnson. We cannot control the weather. As Buitenwerf mentioned, our condition would supersede. If some natural event were to tear down his cabin, it doesn't seem right that he isn't able to rebuild it.

Grob commented I can buy into that.

Gilbertson said if you would turn the roofline, you can control the water better. The roof is in tough shape because it is flat. That is a lot of money to stick into it just to leave it flat. I have to crawl up onto it to clean all the time. If I just put a 6' x 12' pitch with gutters, I would be done with that and it would help the water control.

Petersen asked if the Board were to consider approving this with the conditions that I mentioned, to exclude the deck on the front, allow you to do the bump-out that you are proposing in the back, the change in the roofline that you are proposing, and the addition of gutters on both sides running away from the lake, would you be open to approval in that manner?

Gilbertson replied I would be. I would really like a deck, but I would be in favor of it.

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

1. The proposed addition to the southwest corner of the cabin and the new cabin roofline that runs perpendicular to the lake are the two of the three proposed items that are approved.
2. Rain gutters must be placed on both the north and south sides of the new cabin roofline directing water away from the lake.
3. The proposed lakeside deck is denied.

Johnson seconded the motion that passed 4 – 1 with Kovacovich voting nay.

The Board provided answers to the findings of fact questions 1 – 4 and adopted the staff report findings of fact answer 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? Approved with conditions mentioned only. It would be in keeping with the intent of official controls. Changing the roofline would make it easier to manage water runoff away from the lake, which currently drains right into the lake.

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? Squaring up the structure and redoing the roofline to manage water runoff away from the lake would be 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 structure predates the ordinance and thus the need for a variance was something that the owner could not control.

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

Yes (X) No ()

Why or why not? The structure predates the ordinance, the essential character of the location would be unchanged and the impact to the lake would be improved if the building was squared up and the roof was rebuilt.

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 structure having been built before the Shoreland Management Ordinance was enacted in what is now a bluff impact zone.

Variance Application 45-V-20 by Schneeman Cabin LLC: Part of Government Lot 5, Section 14, Township 141, Range 34, Lake Emma Township on Lower Bottle Lake, a recreational development lake. Parcel 16.14.01600. Applicants are requesting a variance from Section 701 of the Shoreland Management Ordinance for proposed new structures to be placed on a property on which a nonconforming use exists.

Chris and Cathy Schneeman, 1561 Park Circle, Mendota Heights, MN, presented the application.

Schneeman stated Schneeman Cabin LLC is an entity owned by myself, five siblings, and my mother. We have been on the property since 1972 and incorporated it as Schneeman Cabin LLC in 2009. At one time, back in the 40s and 50s, it was operated as Hanson's Bottle Lake Resort. It had been abandoned for about ten years and owned by a local dentist, Vern Shuckhart, for a while. We purchased the property as a family from Dr. Shuckhart. We have been up there for quite a while. Some of the old cottages are still in the bay on the property. We are not proposing to build in that bay area, but back in the northern part of the property. We would be building another cabin that, in a normal situation,

would be in compliance with the 100' setback. I hope you were able to visit the site. I know that weather was an issue for a while. We are hoping to continue our experience on the lake.

Grob asked Buitenwerf the reason they require a variance is because it is a nonconforming use? It is not because they are in conflict with any other aspects of our Shoreland Management Ordinance, is that correct?

Buitenwerf replied that is correct.

Grob asked the setbacks are all valid, the additional septic system areas have been confirmed. There is nothing else that is in conflict with our Shoreland Management Ordinance?

Buitenwerf replied that is also correct.

Johnson asked did you put in the new driveway to the site?

Schneeman replied yes. We did put some signs up to where the walking path was, but the driveway would be to the west.

Johnson asked is the orange flagging the driveway path through the woods?

Schneeman answered there was orange flagging that was tied to trees. That was the general path of where the road would go. There was also staked flaggings that should represent the property line.

Johnson asked the stakes seem to be about 30' into the State property. Your property was actually about 30' further into the lot than what you would have thought, if the State signs were boundary lines.

Schneeman replied the DNR placed markers for visitors to the area. They are not on the property line.

Johnson added I see that you did have that recently surveyed, and I did see those survey stakes being about 30' in towards your property. As I look at your site plan, it shows the main septic site and the alternate site between your property line and your driveway. That would push your driveway much further down the hill. I just wanted to make sure that whoever puts the driveway in, that you have the septic area flagged out first.

Schneeman said we will make sure that the septic is well marked before they start to do the driveway.

Andres opened for public comment.

No oral public comment was given.

Written public comment was received in favor of the application.

Andres closed public comment.

Andres stated I have the same question as you did, Grob, about the multi-residential use of the property. It was originally conforming and then became nonconforming when the ordinance was amended. Now the ordinance prohibits any expansion of nonconforming uses, which is the reason that we need the variance at this point.

Grob said down by the lake there is a little sitting area and a fire pit. There is a large structure that looks like an observation tower or a deer stand. I am not so sure that is a legal structure. It is sitting right there on the edge of the lake. I believe a condition of the approval is that structure would have to be removed. Buitenwerf, do you know what I am talking about?

Buitenwerf replied no, I am not familiar with that.

Schneeman explained that is a tree fort. The kids built that 28-30 years ago. It has been there a long time.

Grob added it is not a legal structure because of where it is built.

Johnson said I would like to let Buitenwerf know that the 2014 septic site plan really doesn't match up with what is there today. They will need to mark that site out before any driveway is put in.

Grob asked you are concerned that the driveway would conflict with the drainfield? They need a new site plan, is that what you are saying?

Johnson replied yes. From the information that I am given in my packet it shows that site plan with the septic being up around that side. When this was done in 2014, were there stakes in the ground for this site plan to be made, or did they go by the State sign? Be sure to have it flagged out before the driveway is put in. I believe the ordinance allows us to put the driveway in before anything, right Buitenwerf? If he was to get a permit, he could start off with the driveway before you got any further design done, correct?

Buitenwerf replied yes.

Johnson said nothing was marked for that septic. It showed to me that the driveway went over that septic area, just from the information that I have. I am making the point that it needs to be looked at.

Grob asked you are suggesting that the drainfield be flagged before the road construction starts?

Johnson responded the drainfield main site and the alternate site should be flagged.

Andres asked do you understand the condition that Johnson is suggesting? There are some questions about the drainfield, the alternate drainfield, and the driveway. The

condition that he is proposing is that the septic drainfield and the alternate drainfield have to be flagged before a permit is issued.

Schneeman replied yes we do understand that.

Andres asked Johnson do I need to be more specific?

Johnson said I don't want to hold them up, I could make the motion if you like.

Johnson made a motion to approve the variance application with the condition that the primary and alternate septic drainfield sites must be ribboned off or somehow clearly marked before any driveway construction, tree removal, or other grading work related to the proposed structures begins.

Kovacovich seconded the motion that passed 5 – 0.

The Board adopted the staff report findings of fact.

Findings of Fact

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

Yes (X) No ()

Why or why not? The proposed structures will meet all setback requirements. The proposed dwelling will not cause the property to exceed the allowed Tier 1 dwelling unit density. The only issue is that this property use is now considered nonconforming, but it could become conforming by obtaining a conditional use permit to make it into a residential planned unit development. The applicants are just not interested in this form of property ownership. The structures will be well screened by mature forest cover from the lake and the nearest residence on another property will be over 1,000 ft. away.

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 three proposed structures will meet all setback requirements and the proposed SSTS will also meet all ordinance requirements. The proposed new dwelling will still fit within the allowed dwelling unit density for the property.

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 multi-residential dwelling use of the property originally was a conforming use and later became a nonconforming use when the ordinance was amended. The ordinance now prohibits expansions of nonconforming uses via the addition of new structures which is the reason why this variance is required in order to add the proposed structures to the property.

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

Why or why not? This property is quite large at ~12.8 ac. and sits on the east side of a peninsula that juts out into the south side of Lower Bottle Lake. The balance of the peninsula is a ~35 ac. tract of State land that was conveyed to the State by the applicants' family. Members of the applicants' family own a few of the adjoining residential lots to the east of the subject property. The other lots to the east are much smaller in size than this property and have seasonal and year-round residences on them. The proposed structures will be well screened from the lake and several hundred feet from the nearest neighboring residences.

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 property use now being nonconforming after it initially was conforming when commenced and the ordinance prohibits an expansion of a nonconforming use.

[Variance Application 46-V-20 by David J. Notch Etal:](#) Lot 1, Potter's Hide-A-Way, Section 32, Township 139, Range 33, Crow Wing Township on Palmer Lake, a natural environment lake. Parcel 06.50.00100. Applicants are requesting an after-the-fact variance from Section 502.1 of the Shoreland Management Ordinance for a lakeside deck on a residential structure.

David Notch, 2700 Westview Drive, Hastings, MN, presented the application.

Notch stated the request tonight is an after-the-fact variance for a deck that replaced a prior deck that was built when the original structure was built. The original deck started to decay to the point where it was unsafe and needed to be replaced. That deck was replaced, and unfortunately we did not obtain a permit or a variance before that. The original deck didn't seem to need a variance. After Environmental Services came out and helped us measure, it was found out that we needed a variance. A variance was originally filed for a number of years ago, but the work had not been completed. We are coming back to have the variance reinstated if possible. The deck that you see here is identical to the original dimensions that were built in 1982. When the deck was rebuilt there was 4' added to the front that was subsequently removed. It is back to its original dimensions.

Johnson said between the application and the staff's findings, what you were approved in 2012 is identical to what you have right now, correct?

Notch explained in 2012 the variance was for exactly what you see here plus another 150 sq. ft. on the east side of the structure.

Johnson asked is there something in violation that you corrected?

Notch responded the deck was rebuilt in 2012 and was actually 12' off the front of the cabin instead of 8'. We took that additional 4' back off about a month ago. The intent of the original

variance was to take that back to 8', so we did that work. We have not built, and do not plan to build, that additional 150' on the east side.

Johnson asked why didn't you comply with the 2012 variance? I believe I was on that Board.

Notch said two of the reasons have to do with the health of my wife and the health of one of my children. For me personally, that five years went by pretty quickly. We were not aware of the five year statute of limitations on it until it expired.

Andres opened for public comment.

No oral public comment was given.

Andres closed public comment.

Written public comment was received in favor of the application.

Andres continued I had the same comment noted on my paperwork here. I wanted clarification that the existing deck that is there today was reduced, modified, and it is what you are requesting. The variance from 2012 minus the 150'.

Notch replied that is correct.

Grob asked can I confirm that the only access doors to this structure are off of this deck, there are no other access points?

Notch replied that is also correct.

Andres asked Buitenwerf can you please bring up the site plan? According to the site plan, most of the 8' x 10' structure is within the setback area, and part of the rest of the deck on the front. Is that correct?

Notch agreed.

Andres said it appears that the rest of the deck meets setback.

Notch responded everything behind that 150' setback line is outside the setback.

Andres asked Buitenwerf can you please tell me when the sunset clause took effect?

Buitewerf replied July 27, 2011.

Petersen asked the way that the deck is currently built conforms to a variance that was approved in 2012, is that correct?

Andres replied that is correct except the 150' that was taken off. This was approved and then it was not completed within that five year sunset clause.

Petersen said I guess, personally, I don't have a problem with this variance. I just don't know how to answer the findings of fact question 3.

Grob added I was struggling too. The prior owner constructed the cabin in 1982 at a setback that did not provide sufficient room for the lakeside deck to serve as a means of access to the main cabin door and the three-season porch exterior access door. To change the entrance locations would not be warranted in this somewhat unique configuration.

Grob made a motion to approve and accept the staff report findings of fact for while providing the answer to question number 3.

Petersen seconded the motion that passed 5 – 0.

Findings of Fact

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

Yes (X) No ()

Why or why not? The deck's 10' encroachment into the 150' OHW setback is being mitigated by a condition placed on the variance that requires vegetative screening to be planted and maintained between the deck and shoreline. Ingress/egress safety when entering the main cabin and attached three-season porch warrants a small deck for that purpose. An 8' depth is reasonable for such.

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

Yes (X) No ()

Why or why not? Having an 8' deep deck on the lakeside of a cabin on a riparian lot is a reasonable sized deck and accessory feature.

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 prior owner constructed the cabin in 1982 at a setback that did not provide sufficient room for the lakeside deck to serve as a means of access to the main cabin door and the three-season porch exterior access door. To change the entrance locations would not be warranted in this somewhat unique configuration.

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

Yes (X) No ()

Why or why not? The neighboring lots are similar in area and depth to this lot. The residences on the neighboring lots are of a similar size and at a similar setback to the cabin on this lot. Most of these other residences have a deck or platform as an accessory feature. Most of the neighboring properties are seasonal residences with the adjacent lot to the west being a year-round residence. A deck of some sort has been in this location for many years and not been the cause of any complaints from anyone in the neighborhood.

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 setback to which the cabin was constructed in 1982 not leaving sufficient room for a lakeside deck to meet the 150' ordinary high water mark setback.

Planning Commission:

Approval of Minutes: October 26, 2020 meeting.

Kovacovich made a motion to approve the minutes as presented.

Petersen seconded the motion that carried unanimously 5 – 0.

Old Business:

[Tabled Conditional Use Application 2-CU-20 by Green Pine Villas Owners Association, Inc.](#) Common Interest Community No. 25, Green Pine Villas, Section 20, Township 141, Range 34, Lake Emma Township on Potato Lake, a recreational development lake. Parcel ID 16.44.91200. Applicant is requesting to amend Condition 8 of Conditional Use Permit 1-CU-09.

Andres stated this application was first heard at the October 26, 2020 Planning Commission meeting. Several ordinance violations were identified during the lot viewal. The application was tabled to allow staff an opportunity to visit the site, determine what violations existed, and report to the Planning Commission on them. Several violations were identified as mentioned, and a violation letter dated November 9, 2020 was sent out to the Green Pine Villas Owners Association and all eight of the unit owners. The applicants have contacted the Environmental Services Office and would like to table the application for the December meeting, which they now know is the last meeting within the 120 day window, as the County Board must act on the application.

Kay Lloyd, 24077 Galaxy Trail and 24133 Galaxy Trail, Park Rapids, MN, president of the Green Pine Villas Owners Association, spoke regarding the application.

Lloyd explained we are asking to be tabled until the December 21, 2020 meeting. We will be asking to amend Conditions 2 and 8 of the Conditional Use Permit 1-CU-09. We have 9 other owners in our entity as a homeowners group. We will deal with the amendment. As for the violations of platforms, the owners will deal with them individually at a different time. As to the violations identified in the November 9, 2020 letter from Environmental Services, the item listed as a shed and two plastic storage bins have been removed. As to the storage shed east of cabin 6, which they had a permit to build, they also noticed a violation of a small wood storage shed that they have attached to that shed. They will remove that wood bin. It should be removed fairly quickly. That is the progress on the violations. We will be addressing the amendment of Conditions 2 and 8 at the December Planning Commission meeting.

Andres added I do think that tabling the application at this time is a good idea and gives you the time to come up with your amendment. You do understand that the Environmental

Services Office also sent you a form called the 60-Day Rule time extension form if more time is needed. Did you receive the form?

Lloyd responded yes I did.

Andres made a motion to table the application until the December meeting as requested by the applicants.

Johnson seconded the motion that passed 5 – 0.

Shoreland Management Ordinance – Short-Term Rental Content Development

Andres stated last month we had input on short-term rental content development. We will continue to review and discuss.

Andres opened for public comment.

Paul Swenson, 24608 200th Street, Nevis, MN, stated I would like to thank you for taking this matter up. I also thank Buitenwerf for forwarding me the draft that you have in front of you, the draft of comments and suggestions. It got whittled down quite a bit from the previous outline. I did notice a few things that I want to make sure that we don't miss. I want to make sure that we maintain a commercial classification for these properties and not let them have a classification of their own and thereby escape some property taxation and zoning rules. Another thing is the septic compliance measurement. Is it measured by bedrooms or flow or occupancy? I also appreciate trying to create something that we can work with and move forward with. It needs to be somewhat easy, but if there is an expense to all of this it should really be borne by the property owners who are choosing to use their property in this fashion. Many of you bought properties as single family homes next to single family homes that are now being operated as commercial properties. They are generating tens of thousands of dollars of revenue for their owners. Sometimes it inconveniences us that are just up there for other purposes. What is the penalty if they don't comply? The penalty for the Shoreland Management Ordinance is a misdemeanor. I just looked at my neighbor's and his average week rent is over \$3,000/week. I am not saying that he rents it for the whole summer, but he rents it for a lot of weeks. A misdemeanor is not going to cause him to follow the rules. Maybe a cease and desist order? I think ultimately you have to move to a conditional use permit arrangement. It is a commercial property in the shoreland area. The surrounding property owners should be given some courtesies as to screening that. I appreciate the hard work that you are doing.

Andres closed public comment.

Andres commented all of the Board members did receive the latest draft dated November 3, 2020. Do any of the Board members have any questions, edits, or suggestions? As Mr. Swenson said there are some items on there that have been removed or deleted.

Kovacovich said my question is where it says short-term rentals must be consistent with the following provisions and Item A references that all short-term rentals operating prior to the effective date of these standards and said short-term rentals must come into compliance by "x" date. Am I missing something else in here? What about new ones? They

must also comply, but I am not seeing it. It almost looks like that would exclude any new ones having to comply.

Andres mentioned I understand your confusion. You think that statement only applies to previous, and not previous and all.

Kovacovich said that is how I read it. I just want to make sure that what we are talking about is all. Not just the ones that exist now, but any in the future too.

Buitenwerf explained the language is specifically mentioning those that pre-date the regulations, otherwise those would be exempt. The regulations would certainly apply to any short-term rentals that would commence after the adoption of this language potentially, if adopted.

Kovacovich replied that was my confusion. Any new one is automatically included, and this is just to make sure that we capture those that are already renting.

Johnson added since you did bring up Items A and B, I have an issue with that. It puts current owners out of business. I think there should be something in this ordinance for people who own undersized lots and that have been operating for years now. Otherwise they will be out of business because of this. Maybe we should put in a CUP process for the prior owners. It is easy to prove to the County that you have always had this business and relied on this business. If you don't have proof on last year's taxes, then you didn't do it. Maybe there is an undersized lot and they can only have one car parked there.

Andres stated I understand part of your question. You mentioned the part of not meeting the minimum lot size. I think when they mentioned it before, at that point they would need variance approval if they don't meet any of the requirements.

Johnson explained then we are going to be making rules that are going to create the need for a variance for something they were previously allowed to do. Now they are at risk of losing something. It was allowed, now it is the government taking that away from them. I want to give the prior owners a chance to go through a process. There are people out there that do not meet what is drafted here. There are going to be people who have a lot that is not meeting the standards.

Grob stated if they have been doing something that was maybe not appropriate in the past. The real questions to me, is there 10 of these people or 150 of them? I think that the size of the problem would dictate what we would end up doing. If we have 150 of them in Hubbard County and 10 of them don't meet the requirements, maybe we could deal with a variance. If all of them do, we have a different problem. I would rather have that data before I decide how I might come down on this. I have a second question, Buitenwerf, we say on a lot that meets minimum requirements. Shouldn't that say parcel instead? My house covers one lot, part of another lot, a vacated street, and in the future it will cover part of another lot. Two lots in one block and two lots in another block, but it will all come under one parcel number. Is parcel a better description? If you recall on a lot of our variances there is one parcel number, but it may include multiple lots, especially when it goes back to cases where there were small lots originally.

Buitenwerf said lot is the term that the Ordinance uses to refer to a piece of land. There are other counties that use parcel. We don't just for consistency of terminology. Parcel also is used to refer to a tax parcel, which is a different thing than a zoning lot. That would be the explanation for you.

Grob continued my house is on one lot, but the parcel includes parts and pieces of three other lots. Should it be a requirement that it also be in compliance with all other shoreland management regulations? If there are violations on the property, as we find a lot of times with variances, should this include the fact that the property is in compliance with all the regulations? My thought was to add that sentence to it.

Johnson stated I guess it would be a violation whether this was going on or not. It is always a violation. I believe you are correct. Whether this goes through or not, they still have a violation there. The County stumbles along those all of the time.

Andres mentioned I understand Grob's concern, but I agree with Johnson as far as that goes. There are violations all of the time that we do come across, or complaints that turn into violations. Sometimes when we do lot viewals, there are violations picked up. There are going to be violations that the Environmental Services Office will have to contact the homeowners about, regardless of the situation. Violations need to be addressed.

De La Hunt added I believe last time there was discussion that in order to get a permit, they had to be in compliance with the Shoreland Management Ordinance requirements.

Andres commented I was trying to review them as well. I thought there was a statement of that point, that way they know that they don't have any violations at the time that they start the application process. If they have any violations, they would have to be addressed in order to move forward. That would be one way to make sure that no violations are outstanding.

Grob said I don't read in any of these statements that there is any application or permit issued. I don't see anywhere in here that you would have to do an annual application and be registered, or need a license, or a permit. You could cover that if there is an actual application on an annual basis, or every couple of years. Nowhere in here does it require any paperwork, other than self-paperwork. Am I misreading something?

Buitenwerf explained you are reading that correctly, Grob. This draft would have them operate the same as a home occupation. If they meet the listed provisions, they are allowed to operate.

Grob added I have strong feelings that we should have record of all of the short-term rentals that we have in the County. Whether they just register them and you have it in your files, or we actually give a license or a permit. I guess you are trying to avoid that, but we should at least have knowledge of all the short-term rentals. They should be registered in some form.

Kovacovich said we need to do some kind of registration so that we know what is out there. We still have no idea how much of this is going on in the County. Thinking about Johnson's concern, I don't know if I missed something. For those that exist and may not fall in

compliance, did you have a way of putting something in here that would put them in compliance or a process to reach compliance?

Johnson responded I thought that there could be a window of opportunity for people that can prove legitimately that they have been doing it. If they don't meet what we have drafted here, I believe that there should be a public notice where they need to prove their prior use. At that time, if their lot is undersized they would automatically fall under a different process. There are good ones out there that people do not even realize are being rented. They have something very slight, but it doesn't meet the definition of this draft. It will be a huge problem for them. I got this last night and I have thought of a couple different situations. I have been working in this County since the 70s. I know a lot of what is going on. This is going to hurt a lot of people. I am concerned about it.

Kovacovich added as am I. I don't want to hurt people who have been doing something that is perfectly legal as of today, and doing it well, not causing problems. It seems like a taking. We have to have some kind of a process built in. They have to be able to prove it, with their taxes, that they were actually in this business. I am with you, I think that we need to have a way that we are not automatically telling people that they are out of business.

Johnson agreed. I am not against vetting them and making that rule to do a conditional use process. Having a review of some kind gives the ability to condition it. I don't like the variance part because that is on the line of putting people out of business.

Grob stated we could debate Item B the rest of the night. Could we conclude that we need to find a process for people who are currently operating if they cannot meet this condition? It could be a variance, a CUP, or a special process where they have to prove some things. We can work on that as we go downstream. I don't think we are going to solve that problem tonight, and we have a lot of other things to go through.

Andres said moving forward, does anybody have any questions or comments on the next items? Mr. Swenson had some comments on the septic requirements.

Grob asked have we talked about Item C yet? This came up in a previous discussion last month. If there is a contiguous lot that meets the requirements under common ownership, that can't also have a short-term rental on it because that is two right next to each other. That starts to look like a resort. I think potentially an add-on to the Item C would be something along the line that contiguous lots under common ownership shall not have more than one short-term rental registration.

Andres stated I see where you are coming from there. Does anyone else have any comments on that? If you have one common owner, and they own two or three lots, and they want to have short-term rentals on each lot? At this point it states that they can only have one.

Johnson asked what if we have relatives that are legally together on a property and one has a life estate? If one of them dies, there are two legal properties on one parcel. What if they don't want to subdivide it, but they do want to use that property for a short-term rental? That legal matter happens.

De La Hunt added I know of at least one property that has two of these short-term rentals on their property now. That speaks to Item B. You would potentially be forcing a variance for existing properties.

Grob commented I don't want to participate in a process where we are going to water down what we are trying to prevent in the future because of one or two exceptions that exist now. We can always find a couple cases where something might hurt somebody. We have to be looking ahead 10 years from now when there could be 500 short-term rentals around and completely change the structure of what we have from private residences. I don't want to see us watering it down and allowing this to happen in the future. If we use a couple existing situations to water down things, then we aren't preventing what we really want to prevent long-term. We have to be careful is what I am trying to say.

De La Hunt stated I can agree with that as long as we are relatively assured that there aren't that many of them.

Grob asked are we on Item D?

Andres answered yes. Like I mentioned, Paul Swenson had the comment on the septic measurements for Item D.

Johnson said whatever they are advertising for the bedrooms, the septic would have to meet that sizing requirement.

Grob asked is there a different requirement for seasonal properties versus year-round?

Johnson replied there is a reduction when you get to a resort. They look at it as less water use.

Grob commented I am trying to follow up on what Andres is saying. What is the criteria? If I wanted to rent now, what criteria would I use to establish whether I have a properly sized system or not?

Johnson explained if you went in and said I want to buy a 3 bedroom home and do a short-term rental, there would have to be a septic compliance done to make sure that it was sized for a 3 bedroom structure, so that you don't exceed the number of people. I read that there was going to be a metering process, which would be submitted to prove that they are not exceeding that and using way more water than what is allowed by the sizing of the septic.

Grob asked there would be a clear way to calculate it? It wouldn't be arbitrary. Seasonal versus full-time?

Johnson agreed. The only gray area is that the compliance inspection that you do, you don't get to the part of how bad a system has been abused. You really don't know how much life is left in that system when you do an inspection. You do what the State standards ask you to look at. You can't predict the hydraulic function of it because you don't know if it has been properly used in the past. The meter in there would control that, you would know if they were starting to exceed what it was actually sized for.

Andres added I do have a concern with part of that statement that the daily flow recordings must be taken every day and a log kept. I don't foresee the owner going to the property every day to do that.

Johnson commented they do make meters that can be hooked to the phone line, if they have a phone line there. They have a pulse that sends to the electric company, and they can meter the water through the phone company. That is a possibility.

Andres asked you are saying daily recordings don't seem to be difficult?

Johnson replied I don't believe that would be kept up, maybe a monthly one would. You could break it down. I see where you could do it in a way that you could split the 4th of July up so that it didn't look like you used as much water then. I understand requiring the daily readings because of the possibility to skew the numbers on a monthly one.

Grob asked how do you determine the proper size of a septic system today? Is it the number of bedrooms?

Johnson answered the number of bedrooms. 150 gallons a day per bedroom. You also have to do soil borings to get an opinion of how much water will go through a square foot of soil, then you have to break it down into an average use of how much you can dose that area and if you have enough area to dose. The University of Minnesota has safety measures in there, so the numbers are a little larger. It seems to be pretty effective. I don't think Hubbard County sees a lot of failures. The sizing is based on the bedrooms because that determines the number of people using the system. You can have 5 bathrooms, and the 2 bedrooms are still only going to use those bathrooms so much.

Grob asked when we do a variance, people have to have a septic compliance done. If I have a home the septic is in compliance, would that still be in compliance if I was renting it out? Is the criteria the same?

Johnson responded yes, with the same use based on two people per bedroom. It would be the same. It is based on gallons a day per bedroom.

Petersen asked is there an assumption of use whether it is a private, single-family home or if it a rental? The assumption with bedrooms is that there is going to be certain usages there. They have to assume that to design a system, right?

Johnson said no, it is a residential use. It is the same sizing, except for when it gets to a resort. Then there is some leeway on it, and there should be on this too because people don't stay long enough to do laundry. The laundry water might not be used in the system as much. It could be like resort sizing. 50 gallons a day per person and no more than 2 people per bedroom. Would you agree with that, Buitenwerf?

Buitenwerf replied what you shared for sizing information, yes. The administrative aspect is that we want to go by what they are advertising for the maximum occupancy because that falls in line with our long-term policy of how we require septic to be sized for a standard residence. We don't count the number of bedrooms that they have, we don't want to see floor plans because that gets into arguments over what constitutes a bedroom. If someone

wants to short sheet their system and say they have a 2 bedroom house when they have a 4, that is up to them. We just require that the design be for the number of bedrooms that they state on the application. We would treat STRs the same way.

Johnson added if they lie, they are cheating themselves and their septic system will fail.

Andres stated that is correct. Grob, does that help give you some clarification on that?

Grob said I am just asking how I would know what criteria would be used to size the system.

Andres continued we have already discussed the documentation for Item E. I suppose that would cover if there was a violation, questions, or a complaint. They would be able to give the following information to them within the 120 hours. That seems to be reasonable to me. Number 1 and Number 2 are the water test kit and the certificate of compliance. As Buitenwerf mentioned with a home business, those are things that they have to do anyway in order to keep their business going. That is, again, that self-certification process. Those are items that they would just have to do, and we would assume that they are doing them. If for some reason they ever had to submit it, then you would know if they weren't.

Johnson commented I think that is a good idea. It is very inexpensive. In fact, I think you can get it done free in some places. I don't see someone trying to use someone else's water for a test and then start having people getting sick out of their house. I think it is a good idea.

Andres read Number 3 says proof of currency on Hubbard County property tax payment.

Kovacovich said concerning Mr. Swenson's items, one of them was commercial designation. If it is a short-term rental, is that the County's position regardless of the number of days rented? It goes into a commercial status for property taxes, or is it seasonal? I am curious.

Andres asked Buitenwerf to give some guidance on that question.

Buitenwerf explained that the assessors currently from the Department of Revenue are instructed to identify short-term rentals and then classify them as a type of commercial classification if they meet certain criteria. That is the current state. Who knows if that will continue once people start seeing their tax statements and contacting legislators. That is a different thing from zoning. From a zoning standpoint, at least from this draft, I guess it is kind of immaterial with this performance standard route of whether it is looked at as a residential use or a commercial use.

Grob commented we are not in control of this, other than the fact that we want to make sure that they have paid taxes. It is up to the County and the State to decide how they want to classify these short-term rentals and then apply a tax classification. All we want to worry about is to make sure that they have been paying the taxes against whatever their property is classified as, right?

Petersen replied I think so.

Grob asked is it the Environmental Services Department's intent to develop, or issue, a specific registration report form that they should be using. I have seen good reports, and I have seen bad reports. I have seen good data recorded, and I have seen bad data recorded. I would assume that there would be a standard format that people would be filling out.

Buitenwerf stated from my standpoint administratively, I don't want to get to that level of micromanaging. It specifies the information that we need to be provided and then I would expect that it would be legible.

Andres continued Item F is sufficient vehicle parking. Does anyone have any questions or comments on Item F?

Petersen responded it seems reasonable.

Andres read Item G, on-premises advertising signs are prohibited. I think we stated last month that was reasonable. Same with Item H and Item I. I know last month Kovacovich suggested the maximum height of 20'. That was a good suggestion.

Grob clarified this would imply that a light pole is considered a structure and would have to meet the 100' setback requirements, is that true?

Buitenwerf answered it would need to meet the setback, but the Ordinance specifically exempts light poles from being considered structures.

Grob asked then why does even requiring it to meet structure setbacks make any difference if it can't be considered a structure?

Buitenwerf replied it is not a structure, but you can still say that you require those setbacks to be met. There are other items that we exempt from being considered structures and needing permits, but we still require that they meet setbacks.

Grob asked does that mean that I could put a light post 10' from the lake?

Buitenwerf said no, it would have to be in compliance with the structure setback.

Grob continued what is the structure setback requirement on a light post? There is none.

Buitenwerf explained it is stating that a light post, although not considered to be a structure itself, would still need to meet the structure setback applicable to the lake on which the property is located.

Johnson asked Andres did we ever talk about going back to the fact that the property line must be clearly and conspicuously marked? Did we ever talk about how it would be handled if someone came with animals? I know we have the Animal Ordinance, but how does that really affect someone who might be here one time in five years. I was just thinking about the property line. I don't want to require a fence, but I am thinking it could be a problem.

Andres clarified you are concerned about short-term rental people bringing pets and not being mindful of the property lines?

Johnson added or not being good pet owners, and they are running off to investigate everyone's neighboring yards.

Andres said I appreciate your concerns, but even current residential people have issues with keeping their pets in the yard. I just don't see that there is a whole lot of enforcement that we could have for that type of situation.

Johnson stated we have seen a lot of fences put up and a lot of issues about fences, specifically with animals. These are people who live together and have to live together. The renter is just going to be there for the weekend and leave.

Andres mentioned if there is going to be neighboring complaints, they will start contacting the Environmental Services Office. We could address those issues in the future if we need to be more specific on situations like that.

Kovacovich added if it does become a problem we could do something that requires pets to be leashed when outside at all times. That is how a lot of campgrounds and parks do it, if it is a problem.

Andres read Item J, rooms used for sleeping shall be provided with egress windows.

Kovacovich said it looks good to me.

Johnson asked how much of these bigger issues are we allowed to send down to let the Commissioners decide on?

Andres stated there has been some advice that once we come up with a short-term rental content draft, that we forward it to legal counsel before we move it forward to the County Board.

Buitenwerf explained my understanding is that the Board is looking for a fairly developed draft to come from the Planning Commission. Commissioner De La Hunt can certainly add to that if I am not understanding that expectation correctly.

De La Hunt said that is correct, Buitenwerf.

Grob asked are we at the point that we have been through the whole set yet? I have a couple comments of things that we are going to have to address. I have three things. What are the penalties and fines going to be? Are we going to have them, and what are they going to be? Do we make that recommendation or leave that up to the County? Requiring at least some level of registration, and some minimal information, so that we have a record of the short-term rentals. At what point do we trigger a conditional use permit? When a common owner owns multiple units, that is a business and should be a conditional use permit. Somehow we have decide when this goes beyond the single-family residence being rented out part of the year, versus when people are actually doing this as a business. I don't have an answer for them tonight, but those are the three things from my standpoint that we need to find some common ground on.

Johnson mentioned on that registration, wouldn't we want to include an application? What they fill out in the registration could change everything, and it is actually an application.

Grob said I am trying to avoid an application. We don't want a situation where we have 150 applications that need to be reviewed. At the same time, we would like to know what units, what is your address, where are you located, who is the owner, what is the contact information? We should have some of that basic information for all of the short-term rentals. You might have a few questions as far as the septic being in compliance. A simple, one-page form that at least we can log in. I think neighbors would like to know. If I was buying a new property, I would like to know if the place next door was going to run like a resort. I think at some level we should have that information, but not treat it as a license or a permit. It is merely that it is registered so that we know where they are and who the owners are that go with them. That shouldn't be too much paperwork.

Andres stated I think I understand what your approach is. You would just like to gather a registration in order to form a list to see where these are at and for neighboring properties. Is everybody content with this part of the short-term rental content? We are still going to continue to gather information regarding the content from other counties and create content that best fits Hubbard County. We still have some time to review and go over some of the content that we talked about this evening. I know some of the items to address will be the commercial questions, penalties and fines, and the registration. Does anybody else have any questions or comments? It is going to take time to get something to the Hubbard County Commissioners in full. We just have to keep plugging along.

Petersen asked Johnson when we talked about whether daily flow recordings was practical, I wondered if you answered that? I am just thinking that we would want to have something that is realistic. I want to hold them accountable, but daily? I don't know how you would do that, or maybe I missed something.

Buitenwerf replied there is software for meters that allows it to take a daily reading and generate a log. That is the easiest way to go about those daily readings.

Petersen clarified that could be done remotely?

Buitenwerf agreed.

Petersen said that is fine. I just wanted to make sure there was a way that people would do it.

Grob added I don't want to go back to Item B, but could that be worded in a way that all new short-term rentals must meet these minimum requirements? Currently existing units that are legal and nonconforming properties would qualify. This is a way of trying to address that. Johnson seems pretty adamant that there are a lot of them out there that we could be hurting.

Johnson stated I was thinking and trying to make it simple. I am not saying that they should be grandfathered in and run just the way they are, but they should be identified that they don't fit the draft as it is proposed right now, and they may need to be reviewed.

Buitenwerf said as far as the question on enforcement, you can look to Section 1109 in the Shoreland Management Ordinance. That lays out how enforcement is handled. This would be the same. It is a misdemeanor. If it reaches the level of the County Attorney taking

action, they start with letters and then would end with a citation being issued through the Sheriff's Department. That would bring the matter to court.

Andres asked if anyone has any questions on the short-term rental draft? We have done a good job reviewing and discussing. We will have to continue to revise.

New Business: None.

Miscellaneous:

Communications: Buitenwerf stated as far as a tentative December agenda, that is on the screen in front of you.

Adjournment:

Kovacovich made the motion to adjourn.

Andres seconded the motion.

The motion carried unanimously 5 – 0.

The meeting adjourned at 9:19 p.m.

Respectfully submitted,

Staci Lee

Recording Secretary