

HUBBARD COUNTY

Planning Commission/Board of Adjustment Meeting Minutes

6:00 p.m. on Monday, October 28, 2019

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

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: September 23, 2019

Kovacovich made a motion to approve the minutes as presented.

Grob seconded the motion that carried unanimously 5 – 0.

Old Business: None.

New Business: None.

Board of Adjustment:

Approval of Minutes: September 23, 2019

Andres made a motion to approve the minutes as presented.

Kovacovich seconded the motion that carried unanimously 5 – 0.

Old Business: None.

New Business:

Variance Application 48-V-19 by Steven and Rosemary Mallory: Part of Government Lots 3, 4, 5, and 6, Section 2, Township 142, Range 32, Steamboat River Township on Benedict Lake, a recreational development lake. Parcel 24.02.01100. Applicants are requesting a variance from Section 701 of the Shoreland Management Ordinance for a proposed alteration of a nonconforming use.

Steve and Rosemary Mallory, 8604 Whisper Creek Trail, Greenfield, MN, presented the application.

Steve Mallory stated the variance request is to build a lake home for my wife and I on the property described in the variance application. It meets all of the setback requirements. It does involve relocating a couple of the cabins that are currently there, which we plan on

doing. I don't know any of the details that you need to hear or see beyond what is in the application.

Grob said in your application you identified five cabins that will be removed on a very specific schedule. I guess it would be appropriate for you to confirm that is the schedule which you will use to remove those, including the ones that are not on your property.

Mallory replied the proposal is removing cabins 1 and 2, which are not on our property. Cabins 3 and 9 are on our property. Cabin 11 has already been removed. We demolished that this past Friday. Cabins 1, 2, 3, and 9 have all been sold. We have purchase agreements against those cabins. They are being relocated to other properties at the buyer's location. Cabin 9, which is just in front of our proposed home, is going to be moved probably next week, depending on the outcome of the variance. That is scheduled to be removed and staged on a different location on the property until it can be removed in the spring. The people who have purchased that cabin don't have their slab down yet. So we are just going to store that there. Cabin 2 and 3 are going to be moving next week, pending the outcome of the variance. Cabin 1 is that same situation as cabin 9. Our real estate person is moving those to another piece of property. They are not ready for those cabins yet, but they will be taken off line and not part of the water or sewer system. Those cabins, by December 1st, will be either off line or off the property.

Grob asked when do you plan to start building your new home and garage?

Mallory answered this fall. Hopefully we will be breaking ground in November, depending on the outcome of this variance and the permitting process.

Grob continued my line of question is focused on the fact that we would like to ensure that all those cabins are gone or disabled before you start building. That is part of the conditions of the application that you are making.

Mallory replied there are three components the way I see it. There is the electrical component, the sewer and water, and the gas. That electric has been dismantled already. They are no longer hooked up to any of the power on the property. There is no longer gas in any of those facilities. Cabin 11 is gone, so that is not hooked up to the septic. We could make sure that 1, 2, 3, and 9 have been severed from any of the mechanical components on the property and can't be put back on line. I don't know how to get that confirmation back to the Board, but we sure can get an affidavit from whoever disconnects it and caps off the septic.

Grob asked which of the two did you just say were going to be moved this fall?

Mallory stated actually three of them. Cabins 2, 3, and 9.

Grob asked will they be removed from the property?

Mallory explained 2 and 3 will be removed from the property. 9 will be moved from its current location to another location on the property. It will not be hooked up to anything, just staged. Cabin 1 would be the only cabin that might not get off the property this fall.

Grob continued I think you indicated when we were at the lot viewal, that you yourself had measured the 100' setback mark. How sure are you of that 100'?

Mallory replied I am extremely confident, because I held the other end of the tape. We actually taped it off.

Grob asked where is the ordinary high water mark?

Mallory stated we had the property surveyed and we looked at that ordinary high water mark that is on the survey. I would say if anything, we erred on the side of safety.

Grob added you are aware that any deck or platform in the front of the building has to meet that 100' setback. I bring that up because we have encountered that more than once. I think you said you didn't have any plans for that, but if you have any inkling that you might want a deck in the future, put it back far enough so that you don't run into any difficulties.

Mallory said my understanding is that a patio is ok, but a deck is not. Is that correct?

Andres corrected a concrete patio and deck will be the same.

Mallory stated it would be a future plan to have a concrete patio on the front of the house.

Grob said that would have to meet setback.

Mallory responded we are good with that. It doesn't alter our plans at all.

Johnson added if you have patio blocks around a fire ring, that would also have to meet setback. In case you want to change any plans.

Mallory replied we are good with that.

Petersen asked would you be opposed at all if I asked Buitenwerf's department to mark the 100' setback before any construction would start?

Mallory answered I am not opposed at all.

Petersen asked Buitenwerf could we place that as a condition on this variance if we were to approve it?

Buitenwerf agreed.

Grob added we are just trying to protect you.

Mallory stated we have no reason not to make sure we are in compliance with everything, so it is not an issue for us.

Andres asked Buitenwerf if he needs to move cabin 9 and cabin 1, relocating it on the property, providing this is approved; would he have to get a land use permit from your office to relocate those for the time being?

Buitenwerf replied technically yes, but if we can keep an eye on them and they are going to be gone next spring, I am not going to worry about it.

Johnson added every day counts for this weather right now.

Mallory said we are right on the edge of whether we can break ground or not.

Petersen opened for public comment.

No public comment was given.

Petersen closed public comment.

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

1. Cabins 1, 2, 3, 9, and 11 will be disposed of as proposed in the variance application.
2. The Environmental Services Department will mark the 100' ordinary high water mark setback.

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 ordinance seeks to lessen the impact of nonconforming uses. The application proposes to remove five rental cabins located within the 100' OHW setback in exchange for being allowed to construct an owners' residence and detached garage behind the 100' OHW setback, and a pole building that will be 325' from the lake – which will lessen the use's impact to the lake and surrounding residential properties.

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? Removing five of the rental cabins located within the 100' OHW setback in exchange for being allowed to construct an owners' residence and detached garage that will meet all setbacks and a pole building that will be 325' from the OHW is a very reasonable use of the property as it will reduce the impact of this commercial use on the lake and surrounding residential use properties.

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 resort use predates the Shoreland Management Ordinance and its nonconforming use regulations which require a variance in order to add a structure devoted to the use.

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

Yes (X) No ()

Why or why not? Five resort cabins that lie within the 100' ordinary high water mark setback will be removed as a condition of this variance. The three proposed structures will be located in compliance with all setbacks (with the pole building being 325' from the lake) which will greatly improve the property's aesthetics when viewed from the lake. The reduction in cabin density will also improve the impact of this commercial use on the neighboring residential uses which do not appear to have been negatively affected by the historic and current cabin density.

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

Yes (X) No ()

Why or why not? Economics were not cited in the application as a difficulty.

Variance Application 49-V-19 by Christopher Weiland: Lot 5, Block 1, Piney Grove, Section 28, Township 143, Range 32, Lakeport Township, on Kabekona Lake, a recreational development lake. Parcel ID 19.49.00600. Applicant is requesting a variance from Section 902.4 of the Shoreland Management Ordinance to remove a portion of a permanent ice ridge.

Chris and Melanie Weiland, 27558 133rd St SW, Euclid, MN, presented the application.

Chris Weiland stated there has been an ice ridge forming for years in front of our property and we have no access to the lake. We want to cut through the ice ridge, at the appropriate depth, and level it out so that we can put a dock in and have access to the lake from our lake property.

Grob asked what is your vision of how you will construct the opening? What I am getting at is, it was hard for me to tell what your land level is, versus the water level. Do you intend to go out straight and then have a little bit of a bank and then rip rap it? Or to cut it slanted right down to the lake? What is your thought about how you want to do it?

Chris Weiland answered we want to leave a little bit up so there will be no chance of runoff from our property into the lake. We were going to hire a professional landscaper to do that. His name is Cory and I have been trying to get ahold of him to find out the name of his business. He is out of Laporte. He has the excavating business.

Johnson stated Honer Excavating.

Chris Weiland agreed. I have been talking to him. He said if I get the permit, that he would be willing to put it in the third week of November. He has done this before and that is why I am going with him. I don't want to do it myself. He is licensed to do this. You sure can come out and check after he is done and make sure he did everything right. I am definitely going to hire him and not do it myself. He doesn't want to go out there right away anyway, he wants to make sure that the ground is frozen. He would do it in the winter time to make sure that nothing is damaged. I am trusting him to do the right thing when he does it.

Grob asked what do you plan to do with all of the dirt that you dig out? That was a big ice ridge.

Chris Weiland stated it depends. It is lower there right in the front. We would like to put some of the dirt there, but if we have to haul it out not to disturb any other ground, we will. If we could use most of the dirt just to level it out there, that is what we would do. Just so that we wouldn't have to take up a lot of excess dirt. I am fine with whatever we have to do to make it right.

Johnson asked Buitenwerf if he was to use his allowed recreation area, would he then have to stay on the landward side of the original ice ridge?

Buitenwerf replied the 15' x 20' area would be able to go up to the ordinary high water mark. The biggest thing that I would advise before authorizing that would be evaluating the extent of a wetland behind that ice ridge. The area where that potentially would be placed is really iffy on whether it would meet wetland criteria, in which case you would need approval through the Wetland Conservation Act before you could put any fill in there.

Chris Weiland added on the maps when I purchased the property, it did not show wetland on that area. It is not marked as a wetland as of this point.

Grob asked that area that has all of the cattails and sedges, is that on your neighbor's property?

Chris Weiland answered most of it, yes. There is only a sliver of it that is on my property. Where you walked down, my property borders that all the way to the stake that we were standing at. The cattails are not far onto my property.

Grob stated that is a wetland area.

Chris Weiland added he put that pond in there as an agreement so that he could take out every tree on his property. I guess he did some kind of wetland exchange credit. That is what I have been told. I don't really know. I know that where the shoreline is, we would angle it so that if there were any wetland behind it, it would not go into the lake. We wouldn't have to cut the whole thing right down to the lake or anything. The way it is now, it is impossible to put anything there to get to the lake.

Andres asked how large is this property?

Chris Weiland answered three acres.

Andres asked do you plan on developing this lot in the future?

Chris Weiland replied yes we do. We plan on building a cabin.

Grob asked about in-line with your neighbor's?

Chris Weiland agreed. Both of them, right where they are at.

Grob stated Buitenwerf I am not so sure that I understood fully the answer that you gave Johnson. Could the 20' x 15' recreation area be cut through the ice ridge, all the way to the water? Or would it have to be behind the ice ridge? I am asking because typically we have no allowed more than about a 10' wide cut in an ice ridge. That is a reasonable width to be able to have access. Could he claim the 20' x 15' rec area and take that out of the ice ridge, or would he have to have it behind it?

Buitenwerf answered the shoreline recreation area dimensions assume that you don't have an ice ridge of the extent that we are dealing with here. I guess that would be something for the Board to decide what you would be comfortable with. If you would allow that width to be excavated out of the ice ridge, or if you would want to keep it to a 10' wide cut as you have done in other cases and then allow to widen out behind the ice ridge.

Johnson asked why exactly do you need the 40' wide?

Melanie Weiland replied we were thinking that we have a big family. The way it is set up right now, this ice ridge is really high. We want a place for them to be able to play and access the lake. We have four grandchildren and four children of our own. We just have a big family, if we could do it a little bit wider so that everyone can enjoy it all at the same time.

Petersen opened for public comment.

No public comment was given.

Petersen closed public comment.

Petersen asked Buitenwerf can you tell me again what you were commenting on in response to Johnson's question, do we have knowledge that the area right behind the ice ridge is considered wetland? Or is that speculative? What is your opinion on that?

Buitenwerf answered my visual observation of the characteristics of vegetation and the soil are supportive of it being classified as a wetland. My recommendation would be to get that determination made by the Soil and Water Conservation District before allowing any fill to be put in that area.

Petersen continued if we were inclined to compromise with the applicant and try to keep his recreation area behind, because of your opinion we might want to hold off until we know. In other words, if you were to improve the area behind the ice ridge, if it were a wetland, that would not be allowed?

Buitenwerf explained it would need to go through an application process with the Wetland Conservation Act. It may or may not be allowed. It might fall under the de minimis, which is

a certain square footage that is allowed to be filled no matter what. If it would exceed that area, then there is an application process where they first look to see if there is a way to avoid impacting a wetland. If not, is there a way to mitigate the impact? Those are the criteria used to determine whether to allow it or not.

Johnson stated we are more concerned about the fill than the actual rec area. If you took the ridge out and hauled the dirt away, and not filled back behind it, there would be no concern.

Buitenwerf added assuming the construction is done when the ground is frozen and they aren't damaging the soil.

Chris Weiland stated we would definitely wait until it is frozen to do it because I don't want to damage the soil either. That would be more work for me to fix it. I would have to fix what I destroyed. He told me he would not do it until the ground is frozen. If I got an application.

Andres asked Buitenwerf if something was approved for the ice ridge at a certain number, can he have both the ice ridge removal variance approved and the 15' x 20' recreation area?

Buitenwerf replied the ordinance allows the rec area to be created with a permit, assuming there isn't an ice ridge to be dealt with. One option, as far as the wetland, would be to say that it would be approved with the condition that a satisfactory determination is given by the Soil and Water Conservation District as to the proposed fill area not being found to be a wetland area. The challenge is that this time of year, I don't know if they would be comfortable making that determination.

Grob said we probably have had as wet of weather as we could possibly have. I don't seem to remember that it was soggy or wet when we went out there the other day. My feet didn't get wet.

Johnson added you and I walked back alongside of the cattails. I was in tennis shoes and I didn't get wet.

Chris Weiland added when you guys were there, it had been raining a lot. I hadn't been there for two weeks and there was more water down there than I had seen all summer. Especially around the pond. The water is never past the cattails in the pond, and it actually was. I think it is because it rained so much. Usually the pond is smaller than it was even. I don't have a problem with paying to have the dirt removed if that is what it takes.

Petersen questioned are you open to a reduction in the size of that cut as a condition?

Chris Weiland asked how much would we have to reduce it?

Petersen replied that is what I am going to try to find out from the Board. Based on history of what we try to hold people to, this is quite a bit larger than what we have done in the past. I wanted your input there if you would be willing to find some point of compromise here?

Chris Weiland stated I would like 40', but I would like to be able to get to the lake too. I would be open to compromise.

Grob added in the past our general thinking has been that it should be wide enough to access a dock and pull the dock out. Typically about 10' is what we have allowed.

Petersen asked Buitenwerf, if we came to some conclusion where we were willing to allow a cut, let's say 10' for instance, would it be your recommendation then, as a condition if we were to allow that, that we still need to get a designation on that area behind the ice ridge? For safety sake so that the application would know what they could or couldn't do? Would we be safe in proceeding without that?

Buitenwerf replied the Soil and Water Conservation District administers the Wetland Conservation Act for the County. Were it my lot, I would want to have that determination done just so I know going forward if that is a wetland or not. If so, then you certainly couldn't put any fill there unless you got approval through the Wetland Conservation Act application process. Alternatively, if the excavation material was to be taken off the property and deposited elsewhere, that would be another option.

Grob commented that is a fairly deep ice ridge. 10' keeps you kind of squeezed in and we do need to taper. I am thinking a little more room might be reasonable. I would offer the idea that if we approve it, I would recommend thinking 15' with what we call a 3:1 taper on the side.

Chris Weiland clarified 15 flat feet?

Grob explained 15 flat feet and then tapered up. We probably have to have a condition that if he is going to leave the dirt there, he has to have the wetland checked out.

Chris Weiland stated being that we are doing it in the winter, I think I would haul the dirt away. If he wants to do it when it is frozen, like you said, this is not the time of year to be checking wetlands. If you approve it, I would haul the dirt out for now. If they checked it next year and it wasn't a wetland, I could always haul some dirt in if I wanted to level that out. If you approve the 15' with the tapered edges, I would haul the dirt out.

Johnson asked Grob would you guess that the 15' flat, where it is disturbed on the top would be at least another 15' on each side. It would probably be 45' on the very top. It is sand, it is going to fall away.

Grob said so if it 6' high, you would have to taper out 18' either side. Maybe 15' isn't a good idea then.

Johnson stated I don't disagree with the 15'. I am just saying I think they should be allowed to put the slopes where they need to be to hold that where it needs to be. I don't know where that is at. Cory Honer would know.

Chris Weiland commented he even mentioned that it would be tapered. He knew that was going to happen, but I didn't know what he was talking about because I have never done this before. It is all new to me.

Petersen asked Johnson would you be comfortable if we just defined it as a 3:1 slope and we defined that bottom as 15', and then where it went to, it went to?

Johnson replied sure.

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

1. The flat cut shall be no wider than 15', the sides of the cut must be sloped at a 3:1 ratio, and the flat cut grade must slope upward toward the lake to prevent runoff.
2. The applicant shall obtain approval through the Wetland Conservation Act for any fill that would be placed on the lot in the area immediately landward of the ice ridge.

Grob seconded the motion that passed 5-0.

The Board provided answers for questions 1, 2, and 4 of the findings of fact while adopting the staff report findings for questions 3 and 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? The construction of the opening will elevate and slope towards the lake, preventing any runoff. The side slopes will be revegetated and also the cut will be revegetated.

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? A usable access to the lake is reasonable for this 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 ice ridge is a natural topographic feature of the lot and shoreline that was not created by the current or prior owners.

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

Yes (X) No ()

Why or why not? All of the neighbors have had to cut through this ancient ridge to get access to the lake.

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

Yes (X) No ()

Why or why not? Economics were not cited in the application as a difficulty.

Variance Application 50-V-19 by Richard and Gwen Zent: Part of Government Lot 2, Section 7, Township 140, Range 34, Henrietta Township, on Fish Hook Lake, a recreational development lake. Parcel ID 13.07.01600. Applicants are requesting two variances: Part 1: Section 502.2 of the Shoreland Management Ordinance (SMO) for a proposed residence to be located within the 50' road right-of-way setback, and Part 2: Section 801.4 of the SMO and Article V, Section 1.01 of the Subsurface Sewage Treatment System Ordinance for a proposed drainfield within the 10' rear lot line setback.

Brent Nicklason, 25275 State Hwy 34, Nevis, MN, authorized agent for Richard and Gwen Zent, presented the application.

Nicklason stated we have a cabin existing. It is currently at 62' from the water. The cabin is beyond the point of repair, it just needs to be replaced. The new design that the owners have come up with has a deck in the front that they would like covered. We are moving the entire structure back to accommodate and maintain the 62' setback. We are encroaching into the road right-of-way and then the other piece is the drainfield. It doesn't really have a permissible site with the setback from the lake and the road right-of-way because of the 147' lot depth that we have.

Grob mentioned I think I noted in the staff report that there was a third part of the variance and that is that the drainfield is less than 20' from the structure. I realize that it is a porch, but we at least have to acknowledge that it encroaches closer than 20'. There are three variances that we have to consider. What are the dimensions of the current building? It says 71' x 40'. Is that correct?

Nicklason replied I don't know if I have the old dimensions. I think the current cabin is 30' wide and this new cabin is 36' wide.

Grob said I see 71' on your drawing.

Nicklason explained it says pre '71 structure.

Kovacovich added referring to the year.

Grob continued it is close because the new structure is 70' x 36' without the overhangs.

Nicklason stated it is the same length. The garage has added an additional length to what is there. It is a bit wider, or deeper, however you look at it. By about 6'.

Grob clarified there are four bedrooms versus two in the new home?

Nicklason said the current plan, there are only two bedrooms on the main level and a loft. Then the basement shows bedrooms, but we are not finishing the basement. This plan was one that they brought to me and said they are not finishing the basement. They are going to finish the basement at some point, but there is no plan to finish the basement currently.

Grob asked so the main level and loft only have two bedrooms?

Nicklason replied correct.

Grob clarified the loft is just open. If they are sizing the septic system for four bedrooms, they must think that they are going to build bedrooms downstairs someday.

Nicklason added I asked them how big of a septic system they want here and how many bedrooms are you going to have? We need to go through this process only one time. You determine how many bedrooms you want and that is going to be what we design this for. They came up with four bedrooms. The drawing shows something different but the basement finish is not happening at this time.

Grob asked the deck on the front, it shows it as a 10' x 32' deck. The drawing shows a wrap-around on the lake side. Is that the intent? Because it doesn't show in your other sketch that way.

Nicklason replied maybe I only put the portion of it that was covered in my site plan. They want to have it as submitted with the architectural drawing. That is what the deck will look like.

Discussion ensued clarifying the drawing and site plan for the decks.

Grob continued it shows 38'. The ordinance requires 35' maximum. Did you know that?

Buitenwerf added if I may, Grob, the ordinance measures the height of structure from the highest point of ground contact to the highest point on the ridge of the roof. With the walk-out, they are showing 38' to the ground.

Grob asked so it is 30' on the other side then.

Buitenwerf stated the non-lakeside is 30'. That is where the height is measured, so it is within compliance of the 35'.

Grob said so that is not an issue then.

Petersen opened for public comment.

No public comment was given.

Petersen closed public comment.

Petersen said I am going to reiterate what I spoke to you about at lot viewal the other day, about the 38' right-of-way setback. I don't know if you have had time to consider that, but

to me since that is what part of the variance is based on, knowing exactly where that is would be something I would be interested in having. A condition of approval would be to have that surveyed and marked.

Nicklason added I certainly agree. I am comfortable with what I have determined, but it is your decision. I think we are talking about inches. I have given myself a little bit of leeway. When I said 38', I know that I can get in that window because I gave myself a little bit of room when I requested a 38' setback.

Petersen stated I am going to direct this to Buitenwerf. As a Board, if we simply say that we are approving this with a 38' setback, and that has not been verified by anybody, are we covering ourselves by just simply making that a condition that we said 38' is what you get? Or, would we be wise to make it a condition that we are requiring that to be verified?

Grob said the other issue is that the drainfield is only 1' from the right-of-way and it is supposed to be 10'. In some ways it is more concerning to me than the 38' one.

Johnson added except the drainfield is underground.

Petersen asked Buitenwerf, what is your opinion on that?

Buitenwerf answered it is ultimately the landowners responsibility to see that it would be built at a 38' setback. Then if somewhere down the road a neighbor objects and calls in a question and we have to ascertain that setback and it is less than 38', then they will be in violation. If it were me spending the money that they will for getting this house built, I would certainly want to make sure.

Andres added I agree with you Petersen. I think it would be beneficial to survey the boundaries.

Grob asked we are ok with the fact that the drainfield is less than the 20', because basically it is that far from the house. The porch doesn't matter.

Nicklason asked are we looking for a surveyor to mark a point? Are we looking for a document? Are we looking for something submitted to this department? I have a demo crew scheduled for tomorrow. Obviously plans change and we can make adjustments, I am just curious what will satisfy the condition? Do I need to have a certificate of survey submitted, or is it enough that a surveyor marks the point on the site and we measure from it?

Grob stated my thought from reading the staff report, it is established that the right-of-way is the property line. I would think it is more than a point, you basically would want the surveyor to confirm that the actual right-of-way is as designated for the property line. I tried to read the title.

Kovacovich said I think he needs to establish the entire back lot line. The road curves. A point is not really going to tell you anything other than at that point.

Petersen questioned would you require a certificate of survey in addition to that, or would the physical survey and stakes out there be adequate? Buitenwerf, any thoughts on that?

Buitenwerf answered I would say getting that rear lot line located and marked so they can measure accurately from it should suffice.

Nicklason stated once that work is done, they would have to survey the entire property if there were to be a certificate of survey produced.

Buitenwerf explained they can do one, I have seen them just done for a certain line.

Grob added the road right-of-way line, property line, is what we are interested in.

Nicklason said the owner could have that turned into a certificate, but work could proceed then once the marks are on the ground, from your perspective?

Petersen replied in my opinion they could, yes.

Nicklason stated I am fine with that.

Petersen made a motion to approve the variance application with the condition that a licensed land surveyor must mark the rear lot line before any permits shall be issued for this project.

Grob seconded the motion.

Discussion ensued about clarifying the requirements that need to be met before a permit could be issued for this project.

The motion carried unanimously 5-0.

The Board adopted the staff report findings of fact.

Findings of Fact

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

Yes (X) No ()

Why or why not? The drainfield setback variance will allow a standard septic system to be installed vs. having to use a holding tank or some form of pretreatment – both of which are less desirable and more costly. The proposed structure will maintain the existing structure's ordinary high water mark setback and only encroach 12' into the 50' road right-of-way setback on a stretch of County 1 that has a 45 mph speed limit such that a 50' setback that is more appropriate on a 55+ mph road is not necessary. The proposed house will have a similar ROW setback to the structures on the neighboring lots to the north and south and be setback further from the ROW than the existing detached garage located in the southeast corner of the lot.

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 application states the current residence lacks a sufficient foundation to facilitate the desired construction. The proposed replacement structure will maintain the existing structure's ordinary high water mark setback and comply with side lot line setbacks. A single family residence with an attached garage is a reasonable use of a riparian lot on a recreational development classified lake.

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 ~170' deep along its north property line and ~200' deep along its south property line making it difficult to meet both the 100' OHW and 50' ROW setbacks especially when the lot has a concave shoreline that has a greater curve to it than the curve of County 1 along the lot's rear lot line. The County 1 speed limit is 45 mph so the 50' ROW setback that is designed for County roads with speed limits of 55 mph or greater is not needed in this location.

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

Yes (X) No ()

Why or why not? Structures on the adjacent and neighboring lots to the north and south of this lot are located at similar road right-of-way setbacks to what is proposed in this variance application. The area consists of single family residential properties – the majority of which are year-round uses. Replacing the residence on this lot with a new residence that maintains the same ordinary high water mark setback and encroaches 12' into the 50' ROW setback when the speed limit on County 1 by this lot is 45 mph will not harm 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 involves the lack of lot depth.

Miscellaneous: Buitenwerf stated as far as next month, we technically have no agenda items. That said, there was a party that was working toward a variance application. I am still waiting for additional information from them so I will be making that call in the next few days, depending on when they get back to me, on whether or not to entertain a meeting. I never have just done that for one application. It doesn't cover our costs of holding a meeting. That is kind of where we are at for November. The other thing that I am working on with our IT staff would be in regard to the possibility of getting County email accounts for the members

so that everything is clean with official business. My only question for IT is if there is a way for that to somehow give you notice when things are in that account, just due to the infrequency, that you have reason to go there. I don't know if that will be possible, but hopefully I will have that info the next time we get together and then we can see if that is a direction to go. I have a feeling it is going to be an inevitable necessity, but if there is a way to make it practical.

Grob asked could anytime somebody put something on it, could Staci just send us an email that triggers us to then go look?

Kovacovich added check with the IT people to see. We all carry handheld computers. If a notification is put in that account, I would assume we could get some kind of icon that would light up. That is what my personal email does for either my phone or my iPad. If it can do that and we can have it installed on our handheld computers, I think we wouldn't really have to check. As much as you glance at your phone, within a day or two, we would probably all see it.

Buitenwerf stated I am with you. I know that technology exists. I am not sure if our web-based version of our email system is that sophisticated. That was the second item I had for you. Hopefully we are entering into the quiet winter. I have got some permit software upgrades that we are going to be focused on this winter. Having some extra margin for that would be handy.

Communications:

Adjournment:

Petersen made the motion to adjourn.

Grob seconded the motion.

The motion carried unanimously 5 – 0.

The meeting adjourned at 7:12 p.m.

Respectfully submitted,

Staci Harvey

Recording Secretary