

HUBBARD COUNTY

Planning Commission/Board of Adjustment Meeting Minutes

6:00 p.m. on Monday, September 27, 2021

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

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

Planning Commission:

Approval of Minutes: None.

Old Business: None.

New Business: None.

Board of Adjustment:

Approval of Minutes: August 23, 2021

Johnson made a motion to approve the minutes as presented.

Petersen seconded the motion that carried unanimously 3 – 0.

Old Business:

Variance Application 22-V-21 by Scot Moores: Part of Gov't Lot 1, Section 1, Township 140, Range 34, Henrietta Township on Boulder Lake, a recreational development lake. Parcel 13.01.02010. Applicant is requesting two variances: Part 1: Sections 502.2 and 704 of the Shoreland Management Ordinance (SMO) to develop a nonconforming lot with a residential dwelling, water-oriented accessory structure, well, and subsurface sewage treatment system where there are not two suitable drainfield sites meeting all setback requirements and the proposed residential dwelling will not meet the 100' ordinary high water setback or the 50' road right-of-way setback. Part 2: Section 601 of the SMO for a proposed water-oriented accessory structure to exceed the 48 sq. ft. maximum allowed footprint.

Grob stated you were before the Board in June. We had tabled your request for the new home on this undeveloped lot and for the storage shed. We were asking for a detailed certificate of survey and all points of the buildings and property lines being marked. We have been out there to see the property. We would now like to hear your explanation of what you are asking for.

Scot Moores, 4707 Hwy 61 N #209, White Bear Lake, MN, presented the application.

Moores responded you had mentioned in your opening remarks not to repeat what I have said before. I need to know specifically what you want me to address.

Johnson stated this is for the recorded record, so you can repeat everything.

Moores stated this whole process has changed over the course of the summer. I had to think about what I really need versus what I really want. I thought carefully about this lot and my medical issues. I need to have something that I can make built for a disability with all my health conditions. I couldn't have a lot with a high hill, and I had to have it close to the road. I need to be close to a city where I have the medical services. I love this area, and this is where I want to spend my last days. This is going to be my home. Family is very important to me. I am very close to one of my nephews. I want those kids to have the same experience that I had. I love lake homes. I have had three of them in my life. I want them to be able to have that same experience that I had. There is nothing greater. That lot serves them perfectly. It has a good shoreline. It is sandy. It has the beautiful pine coverings. It is just enough to get what I need. I want to emphasize need. As far as what I am proposing, I reduced the size of the building by 772 sq. ft.. I took away my wants. I did that so that I would be under the 25% impervious surface, so that is not an issue. I know that is a sensitive thing. The other things I have no control over. I have no control over how the lot was laid out. I have done my very best to comply with the request. One again, it is a one level home. It is a single story. It is going to be log construction. I build significant buildings. The last building I built will probably be on the National Historic Record if you ever want to take a look at it. I am a very particular person, and I am very meticulous. I want to be part of the community. I love this area, and I want to make it my home.

Grob commented let me try to summarize what I believe is new in your application from the original one. You have now attached the garage and the house.

Moores agreed.

Grob continued therefore there are new setbacks, which are identified in this certificate of survey that we received with an August 11, 2021 date. You have reduced things to a single vehicle driveway with no turnaround. Your impervious surface is about at the 25%. The lake-related storage structure does meet the 10' setback based on the survey. There was an issue about the right-of-way with the power lines. There was some information given to us that there had been discussion with the power company that they could bury it long-term, but at this point you have chosen not to use that as part of your current application.

Moores replied that is correct because I wanted to see exactly what the result would be, but most likely that is going to happen. I went and approached all five property owners. There is a 1,000 sq. ft. minimum that they will do, and I am responsible for 100% of the payment. I approached all of them personally, and they have all approved it. They have signed off. It is just a matter of moving forward based upon if this variance application is approved.

Grob added you understand since it is not part of the application, we can keep that in our thinking, but we have to deal with the setbacks that exist with what you have applied.

Moore's agreed.

Grob continued the other thing that I want to make sure that we understand clearly is that there are several nonconformances. You are going from an undeveloped to a developable lot. The southeast corner of your house/garage is only 11' from the power line when it needs to be 25'. Your septic tanks do not meet the easement setback. You have no turnaround in your driveway, which is a potential safety issue. There would be only one drainfield site, you do not have room for two. You are about 20' to the road right-of-way line, which requires 50'. The northwest corner of your proposed structure is 54' from the ordinary high water mark, and the northeast corner is about 75'. Almost your entire home is in the setback zone. The other thing is that you would have to remove all of the tree vegetation. There are 12-15 nice oak trees in order to build, and you would be doing that in the setback zone. The normal requirement is only a 50% reduction in the canopy in that area of a lot. As we consider this, we must understand that you are asking for an undeveloped lot to be turned into a developed lot with at least 7 or 8 nonconformances.

Moore's stated it is my understanding that a variance was granted on this lot in the year 2002 for a house and a garage. It is my understanding that the lot has been declared a buildable lot. That is what was communicated to me. To start this process I had to make a decision whether or not it had a chance of being approved because there are significant funds that have been invested in surveys. I had to make a best judgement guess on whether or not this had a chance of being approved, otherwise there is no sense investing the time and the money to do it. One comment, if I may, on the driveway turnaround area, you know there is a shared common driveway. When I was parked where you gentlemen were, there is no issue with me as far as backing out of the driveway and using that to turn around if needed. That is what the easement with my neighbor is for.

Grob mentioned I don't remember in the documentation that there was an existing variance on this lot that said it was buildable.

Buitenwerf explained there was a variance as Mr. Moore's indicated. The issue was that it did not grant relief from the road right-of-way setback. When all of those were mapped out today, prior parties that had looked at the lot found that they weren't able to make that variance work.

Grob clarified the variance says a structure could be built, but there is no forgiveness on any of the setbacks?

Buitenwerf continued you can see the motion is up on the screen. It was somewhat vague. Based on how it was written up, it did not appear that there was a variance requested or acted on from the road right-of-way setback.

Grob stated that shows a 45' x 30' house setback 77' from the lake.

Johnson added they showed that it would be 25' from the power line, and they had 77' for a setback. Did they move that power line and make it further into the lot, or has that power line always been there?

Buitenwerf responded I don't know for sure, but I would be very surprised if its location changed since that.

Moore's added it appears that the measurements are incorrect as far as what you see there. If you look at the survey that I had done, what you are seeing is true and correct. What happened in 2002, I don't know. I pretty much went forward with my proposal based upon what they had already done.

Grob stated the variance identifies the structure as being 25' from the power line and 77' from the lake.

Moore's replied I understand that, but that is not what the actual measurements are. The measurements on that initial variance are not accurate.

Grob added that is what was approved, and that is all that we can go by.

Moore's continued I understand it was approved, but the information that was provided to the Board was not accurate. Once again, when I started this process I saw what was approved and henceforth that is why I decided to move ahead.

Petersen asked the prior variance that was approved was approved only for the ordinary high water mark setback, and nothing was taken into consideration at that point for the road right-of-way setback, as far as what is on paper here?

Buitenwerf clarified the minutes did not show any discussion showing road right-of-way setback and as Mr. Moore's indicated, when you measure out the distances from that prior variance and try to make it fit on the lot, it does not work.

Grob opened for public comment.

No public comment was given.

Grob closed public comment.

Petersen said Johnson we talked a little bit about the drainfield area. We don't have an alternate site here. You were telling me that an alternate site could be done administratively if there was found to be room.

Johnson clarified it would need a variance and would need to be closer to the lake.

Petersen continued could that just be done administratively, or only with a variance?

Grob clarified if it is closer than 75'.

Johnson agreed.

Grob asked your house plan shows no deck?

Moore's agreed.

Grob continued and no walkways. Where is the entrance?

Moore's replied it would most likely be on the south side.

Grob asked so that would require some additional platform or steps leading into the house?

Moore's responded no. The eave is for 4'. That is part of the reason it is there.

Grob stated you relied on the possibility of burying a power line, and you could get down to 10' of setback rather than the 25'. Have you had any discussion with the power company where they would bury that line? When I was there, it was not clear to me that they would want to go down in that ditch. Therefore, the more logical place is that they would just bury it right there where it is.

Moore's said yes, that issue was brought up at our meeting. It is going to go where it is because they don't want to go in the ditch. There is no way they can get their machinery in there.

Grob added when I look at that, at best you could gain maybe another 5' in setback. Where the house is, other than twisting it or moving it 5', it would have to be where it is.

Moore's agreed.

Grob stated your shoreline is heavily vegetated. I think that you know within 50' of the lake, basically the vegetation needs to go undisturbed. You are allowed a 20' x 15' recreation area by the lake. I am presuming you would put that approximately where the current access path is right now.

Moore's agreed.

Grob continued so you have maybe a 60' walk from the garage. The point that I would like to get at is that you talk about this as a desirable lot because of your physical situation, and you say it has a nice beach. When I went onto my Navionics contour map for the lake, it showed me that you would have to have a dock over 120' to reach a 7' depth in the lake. You talk about this being desirable because you want to walk out and fish at the end of the dock. That does not make this particularly compatible with your thoughts of this being a good lot for your situation when you are going to have to put a 120' dock out into the lake.

Moore's responded I would not put a 120' dock out into the lake. I don't believe that I need a 120' dock. I have fished in front of there and I have caught a lot of sunfish just casting from where I am at. For me, it works great. There is another thing that I like about it, there are no drop-offs for safety for the kids. It is perfect. The pine tree in the water on the left, the crappies and sunnies love to sit around that tree.

Grob asked what are your thoughts about the high vegetation along the shoreline?

Moore's replied it is what it is.

Grob continued you have no intent to remove it?

Moore's answered no. It is a situation where I like privacy. There is enough slight elevation on the lot that I have a great view. I have enough access there, and it is just more work. I have less to keep up. Less is better.

Grob stated you say that you would not put in that big of a dock, but you will have a hard time putting in a boat lift.

Moore's responded I don't want a boat lift. That is another thing to take in and take out.

Grob explained I was just reading your letter that talked about not being able to get into a boat by yourself. I presumed off of the dock.

Moore's replied the boat that I do have is very stable. I have a pole on the side for me to get in and get out. My health and my walking changes daily. I just have to have something that is flat and stable.

Johnson asked how many bedrooms did you propose?

Moore's answered this is a two-bedroom house.

Johnson continued you would have family that would come?

Moore's replied there would be enough for the parents, and the kids could camp out in the living room.

Johnson stated I think it is a lot of house on top of this hill. The topography dropping off like that. I think it is a lot of house there. I know you don't think it is, but I think it is. I have seen lots like this, and when the family starts coming to park and people start using it, whether it is you or someone else, it gets used hard.

Moore's commented they may come up a few times a year. They have one vehicle, and my nephew is the only person that is going to come.

Johnson added you made a good statement that you had no control of the size of this lot.

Moore's agreed.

Johnson stated and we didn't either.

Moore's replied I understand.

Johnson said I think it is too small of a lot, and it should be used as a camping spot for a seasonal RV.

Johnson made a motion to deny the application as presented.

Grob seconded the motion that passed 2 – 1 with Petersen voting nay.

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 () No (X)

Why or why not? There is definitely a lack of depth on the lot due to the road right-of-way and overhead power line easement. The question is thus what is reasonable in terms of improvements given the lot's limitations. There is only one drainfield site on the lot that requires half of the required 150' OHW setback in order to fit on the lot. The proposed overhangs on the house are excessive at 4' and 6'. The southeast portion of the house would be within the electrical coop's utility line easement and the SE corner of the structure at the eave would be ~11' from the actual power line. The proposed septic system tanks would be in the power line easement as well. The proposed driveway does not include a turn-around and thus poses safety issues for vehicles entering and exiting the property. The scale of the proposal is too much for what the lot is able to reasonably support. Also, Itasca Mantrap Cooperative that holds the power line easement running through the property said that it agreed per the applicant's request to change the overhead line to a buried line, move it further south toward County 18, and reduce the ROW width from 50' to 20' which would allow the proposed structure to be moved another 20-30' back from the OHW and possibly for an alternate drainfield site to be made available on the lot.

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

Yes () No (X)

Why or why not? While a 30' x 60' house and attached garage is reasonably sized for today's standards, the proposed 4' and 6' deep eave overhangs are excessive. Having the southeast portion of the house and the two proposed septic tanks located in the power line easement is not reasonable. And having a single vehicle width driveway without any turn-around to a two-stall garage is also not reasonable planning. There is only one drainfield site (instead of the required two sites) that can only meet half of the required 150' OHW setback. The lot is suited to a smaller scale of improvement such as a seasonal RV/travel trailer site. Itasca Mantrap Cooperative has said that it agreed to change its overhead power line to a buried line, move it further south toward County 18, and reduce the ROW width from 50' to 20' at the applicant's request and willingness to pay the cost for such. Moving the proposed structure and drainfield further back from the ordinary high water mark would then be the reasonable thing to do, but the applicant has not proposed such.

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? While the lot exceeds the 150' minimum lot width requirement by ~40' and the 40,000 sq. ft. minimum lot area requirement by 19,711 sq. ft., the southern half of the lot and the majority of its area lies in the County 18 road ROW and a 50' wide overhead power line easement. There is only ~125' of lot depth between the lake and ROW. The power line easement then lies immediately north of the ROW and thus cuts into the available lot depth.

This said, the Itasca Mantrap Cooperative did inform the County that it is agreeable to changing the overhead power line to a buried line, move the line further south toward County 18 to make more usable space available on the lot, and reduce the easement ROW width from 50' to 20' based on the applicant asking if this is possible and stating he would cover the costs of such work. This change would allow the proposed house and septic system to be moved further from the OHW than what is proposed and bring the property closer to meeting more of the standard setbacks that apply to the proposed improvements.

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 residences on lots that vary in size and on which the structures vary in terms of lake and road right-of-way setback. County 18 runs very close to Boulder Lake along its entire southern shore so lot depth-related setback issues are a consistent theme on this side of the lake. When viewing this larger neighborhood, the proposed structure sizes and setbacks would not harm the locality's residential feel.

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

Why or why not? Economics are not cited in the application as a practical difficulty. The difficulty is caused by the lot's lack of depth due to the County Highway 18 right-of-way and 50' wide power line easement that consume the south half of the property.

Variance Application 48-V-21 by Vicki Ronkowski: Lots 5 and 6, Crescent Beach, Section 1, Township 145, Range 32, Farden Township on Wolf Lake, a recreational development lake. Parcels 07.39.00300 and 07.01.03200. Applicant is requesting a variance from Sections 702 and 904.5 of the Shoreland Management Ordinance for a proposed replacement of a nonconforming structure with a new structure that will increase the road right-of-way setback nonconformity.

Vicki Ronkowski, 32560 Wolf Lake Road, Cass Lake, MN, and Matt Murray, 304 3rd Street, Bemidji, MN, agent for the applicant, presented the application.

Grob stated you were at the August meeting and this was tabled. At that time there was an application for a variance to remove all the structures and build a new home. We tabled the application in order to have a licensed SSTS designer address the feasibility of a drainfield. At that time we did discuss agreeing to relocate the home to about a 38' ordinary high water mark setback. You have done the stormwater analysis and come up with a design for a drainfield. You have reduced the size to three bedrooms, the drainfield is feasible with a Type I system, and you have an adequate stormwater plan proposed.

Murray added the only other thing would be the neighborhood overview just to put the size of that structure into scope relative to what is existing in the neighborhood.

Johnson asked when the other structure gets removed, it will be gone permanently?

Ronkowski answered yes, the shed, bunkhouse, carport, and house.

Petersen clarified I want to be clear that you are intending to install and use that drainfield right away. We are not doing a holding tank situation? That is not what you are asking for, correct?

Murray replied for now she would prefer to have just the holding tanks, but if the Board feels that it is important to have the drainfield installed immediately, then she is willing to do so.

Johnson added I believe that we would be doing her a favor to have it put in now.

Petersen said that is how I would like to see it go.

Grob opened for public comment.

No public comment was given.

Grob closed public comment.

Grob made a motion to approve the variance as requested in the application amendment dated 09/16/2021 with the following conditions:

1. The dwelling unit must be built per the updated site plan sketch submitted in the application amendment dated September 16, 2021.
2. The stormwater plan for the property must be implemented as submitted.
3. The Type 1 septic system with a mound drainfield per the design submitted in the application must be installed when the new dwelling unit is constructed.
4. All existing structures on the lot must be removed before construction of the new dwelling unit may commence.

Petersen seconded the motion that passed 3 – 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 lot size, width, and depth are such that coupled with Wolf Lake Road bisecting the lot, a variance of some sort is required in order to build on the lot. The proposal is to remove all existing improvements that are nonconforming and have the proposed structure be moved further away from the OHW than the existing – which are positives. The ability to install a standard septic system to service the proposed house is also a positive as very few of the lots in the neighborhood have sufficient room 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? It is appreciated that the existing improvements are proposed to be removed. The applicant has done a good job of moving the proposed dwelling as far from the lake as possible and providing a septic system design showing how a mound drainfield can be installed to service the dwelling. The stormwater plan will also mitigate runoff generated by the new structure and related improvements.

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 extremely small at 20,760 sq. ft., 100' in width, and ~200' in depth with Wolf Lake Road bisecting the center of the lot and its right-of-way consuming a large area. With the OHW and road right-of-way structure setbacks, it is not possible to place any structure on the lot without some sort of variance.

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

Yes (X) No ()

Why or why not? The locality consists of similarly sized/shaped lots that are also sandwiched between Wolf and the unclassified flowage that runs behind the lots into Little Wolf Lake. Most of the properties are seasonal residences as is this lot. An increasing number of the lots have been redeveloped in recent years with new houses of a similar scale to what is proposed for this lot so this proposed redevelopment will be in keeping with other dwelling rebuilds allowed on other neighboring lots by variance in recent years.

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 practical difficulty. The difficulty is the lot's small size, narrowness, lack of depth, and being sandwiched between Wolf Lake and the flowage that goes into Mud Lake.

Variance Application 49-V-21 by Krista and Robert McBeath: Lot 4, Block B, First Addition to Pine Haven Beach, Section 17, Township 139, Range 34, Hubbard Township on Long Lake, a recreational development lake. Parcel 14.38.40600. Applicants are requesting a variance from Section 702 of the Shoreland Management Ordinance (SMO) for a proposed addition to a nonconforming residence located in the shore impact zone and a variance from Section 801 of the SMO and Article V, Section 1 of the Subsurface Sewage Treatment System Ordinance for a proposed subsurface sewage treatment system to be located within the 10' side lot line setback.'

Matt Murray, 304 3rd Street, Bemidji, MN, agent for the applicants, and John Mason, 512 Park Avenue South, Park Rapids, MN, builder and agent for the applicants, presented the application.

Grob stated you were before the Board last month, and the Board tabled the application asking for a stormwater plan to accommodate the construction project. I think that has been received.

Murray asked I just wanted to make sure that you guys were able to get the revised version based on the comments about dealing with the runoff from the south side of the existing cabin and the addition. Did you get that updated draft?

Buitenwerf replied yes.

Murray continued basically, for the existing cabin portion on the south side, we incorporated a gutter that will outlet at the southeast corner of the structure. That is just routing the existing runoff away from the neighbor to the south. For the new addition, we incorporated that infiltration trench based on a 1" instantaneous volume for all the new runoff off the new addition. We are having an additional treatment or storage capacity in addition to an overflow that will direct runoff away from the neighbor in the event that the system is exceeded.

Johnson stated I was out there and looked, and I thought the property line was shown clearly, but I thought it would be pretty easy to keep 1' away from that with the proposed drainfield.

Mason replied yes, I agree.

Grob added it does not show in the drawing here, but if I remember, the original statements indicated a 5' setback for the tank and a 2' setback for the drainfield. Are those the numbers that we are talking about?

Mason stated we were asking for a 0' setback on the drainfield, but I believe that we are going to be able to stay at least a foot away from the side lot line with the drainfield.

Grob commented in my observation the two marker stakes show the line pretty well set, so it should be okay. Also, the new application has removed any grading or changing of vegetation for a road down to the shed from the current carport.

Mason replied that is correct.

Grob opened for public comment.

No public comment was given.

Grob closed public comment.

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

1. The 09/23/2021 stormwater management plan submitted for the property must be implemented.
2. The SSTS tank must be placed no closer than at a 5' setback from the side lot line and the SSTS drainfield must be placed no closer than at a 1' setback from the side lot line.

Johnson seconded the motion that passed 3 – 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? Replacing the failing SSTS with a new compliant SSTS is always in harmony with the ordinance's intent. The side lot line setback is there mainly to ensure the system is not placed on a neighboring property. In this case, the application states the adjacent landowner has given verbal consent to the new SSTS being placed within the 10' side lot line setback. The proposed addition to the cabin will comply with the 10' side lot line setbacks and be placed on the rear (non-lakeside) of the cabin that is only 4' shy of being located outside of the shore impact zone.

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

Yes (X) No ()

Why or why not? The existing SSTS is failing and must be replaced. Due to the small lot area and width and location of existing improvements and the existing SSTS, there is not room to meet all setbacks with the proposed replacement SSTS. Adding onto a 30' x 32' cabin to have more living space on the backside of the cabin is reasonable – assuming the submitted stormwater management plan is implemented that keeps runoff from entering the addition.

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 substandard in width and area. There is not room to fit a new SSTS on the lot without some form of variance. The cabin was built prior to the ordinance at a nonconforming 46' OHW setback. The ordinance now requires a variance in order to add onto a structure located in the shore impact zone.

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

Yes (X) No ()

Why or why not? The neighborhood is made up of seasonal single-family residences on similarly sized nonconforming lots. The residences on the neighboring lots mostly predate the ordinance and are located at an OHW setback similar to the cabin on this lot. The proposed addition will make this cabin similar in size to the cabin on the adjacent lot to the northeast that was enlarged per a 2003 variance. The cabin on the adjacent lot the southwest is smaller in size – more the area of the current cabin on the subject lot. As the SSTS will be in the ground, it will not affect the locality's character.

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 practical difficulty. The difficulty is due to the small lot area and lot width and fact the cabin was built 46' from the OHW prior to the ordinance being enacted.

New Business:

[Variance Application 50-V-21 by Mark and Jeanie Konzemius](#): Part of Lot 14 and Lot 15, Block 1, Mantrap Lakers, Section 6, Township 141, Range 33, Mantrap Township on Big Mantrap Lake, a recreational development lake. Parcels 20.37.01600 and 20.37.01500. Applicants are requesting a variance from Section 702 of the Shoreland Management Ordinance for a proposed addition to a nonconforming residence located in the shore impact zone.

Mark Konzemius, 400 East 27th Street, Sioux Fall, SD, and Sara Swanson, 120 North Main Avenue, Park Rapids, MN, agent for the applicant, presented the application.

Konzemius stated what we are asking for is that we have an existing patio hard surface. It does run into the lake. We would like to cover that with a screen porch, collect the water off the roof, and run it to the back away from the lake. The practical side of this is that there is no entrance from the existing screen porch into the house, so if it is raining it is really difficult. Two other practical things are that it is really not very usable when there are a lot of mosquitos, so the screen porch would be very helpful. The third thing with that is that it is a summer cabin. We don't have any HVAC, so the screen porch is very popular. To have it extended would be very helpful to us so that we could use it all summer.

Grob clarified lot 20.37.01500 continues to be associated with 20.37.01600 so that there is not a setback issue when we are having this discussion.

Konzemius replied correct.

Johnson stated at the lot viewal, Sara had mentioned that the existing BBQ was going to stay. I was just going to make the comment that it certainly wouldn't have to if it needed to go.

Konzemius said my wife likes the BBQ. I think it is almost 100 years old and hand made.

Johnson continued I wasn't sure if someone thought that it may complicate things if it needed to be removed. I was just making sure that you knew it could be.

Konzemius replied I am not a contractor myself, so they may indeed say that it is not possible to incorporate it, but if we can save it we would like to. As you can tell, it is very rustic. We are really committed as best we can that we maintain the lot and the cabin as it exists, as just a summer cabin.

Petersen asked are you planning on leaving the existing pavers in there as your floor, or are you tearing that out and pouring a new floor?

Konzemius answered we feel that we would need to pour a new floor just from a practical standpoint. It is old, rocky, and uneven. It is not even level. It would be the same level as

the existing. We would take that wall of the screen porch, as you can see in the picture, and that is what would be the wall in the new porch with the door.

Grob clarified your plan is to replace those pavers with a concrete slab?

Conzemius replied correct.

Grob mentioned there was an issue with your outhouse, but I believe that was certified as being acceptable?

Conzemius answered correct. We were originally going to be on the agenda a month ago, but we discovered that we needed to have that done and it passed inspection.

Grob asked you will put gutters along the whole length of the existing screen porch and the new one so that your stormwater goes away from the lake?

Conzemius responded correct. Right now there is no storm gutter at all that faces the lake. My plan is to add gutters along that entire length that faces north and to run it back to the south side of the house.

Petersen stated looking at the picture that is pulled up here, I am curious about the grill. Is the intention of the new porch to match up with the outside wall of the existing porch, or are you going out further? I am not clear about how you are going to incorporate that grill if you are staying with that existing wall. It would seem to be right in the way.

Conzemius replied the cement pad that is there actually does jet out about a foot.

Grob added it seems to me that the wall would come right through about the middle of it.

Conzemius clarified the cement comes out to incorporate that existing grill.

Petersen asked are you talking about the porch going out around the grill, or are you going inside of it so that the grill will stay on the outside of it?

Conzemius answered the plan is to go right along the side of the grill.

Swanson explained so the grill would be on the inside of the porch.

Conzemius replied correct.

Petersen clarified then the wall would be bigger than the existing porch?

Conzemius responded correct. It is the same size as the cement, rock, and stone that is already on the ground.

Grob said I guess I didn't notice that the outside of the pavers, at this point, are lined up with the outside?

Conzemius replied the cement comes out about 6" and incorporates the grill. We don't plan to go any further than the existing footprint of the hard surface.

Petersen stated that would seem to me, by looking at the picture, that the proposed wall would have to go right through the grill.

Grob added when I looked at it there, it seems that if you built the wall right in line with the pavers and the current structure, you would go right through the middle of the grill.

Petersen asked are you asking for that porch to be bigger to incorporate the grill? It looks like the wall would have to go out at least 2' from what this is showing.

Johnson stated the patio would just incorporate that grill, and then it had a jog right there.

Conzemius continued correct, it has the jog and it is cement. We were planning to go right around the existing cement pad.

Johnson clarified so it would jog out a little bit bigger?

Swanson stated just at the point of the grill.

Conzemius explained there is about 6" of cement just before the grill.

Johnson added the cement is bigger than the grill.

Grob asked do you actually use that as a grill?

Conzemius replied we have, but it is so close to the porch that we don't very often.

Grob explained if you build around it, you are going to be too close to even use it.

Conzemius agreed. We won't use it as a grill, it is more architectural element that would be inside, just like the fireplace. I understand that it was something the original owners did. That would all be incorporated inside.

Grob opened for public comment.

No public comment was given.

Grob closed public comment.

Petersen asked before I make a motion, I don't know that I have a problem with it, but am I understanding that the new porch addition will be slightly larger than the existing as far as coming out from the cabin?

Conzemius replied I wish I had a good photo of it. If you could see the existing screen porch, the solid line that faces west jets out about 6", but there is an additional 6" of cement that goes out, and that is how we get the outside of that existing grill. We just plan to stay on that cement pad that exists now.

Johnson asked the 12' 6" and 19' 8" would work?

Conzemius agreed. You can see down below it says 12', so it is just 6" wider where the existing cement is.

Petersen stated you do have dimensions here.

Conzemius agreed.

Petersen made a motion to approve the application with the condition that the structure be built to the size and location indicated in the application site plan sketches and that gutters would be installed on the structure with the downspouts directing runoff away from the lake.

Johnson seconded the motion that passed 3 – 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 screen porch addition will not encroach closer lakeward than the existing cabin and it will be located on top of an existing concrete platform so there will be no resulting additional impervious surface area. The addition's height will be 8' and its roofline will match the existing screen porch and be an extension thereof so the aesthetic impact will be minimal. Stormwater generated by the addition is being mitigated as per the condition placed on the motion.

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? Extending the existing screen porch along the rest of the west side of the cabin so that the porch can be accessed through an interior door of the cabin instead of occupants having to walk outside to get from the porch to the cabin is a reasonable request. Placing the porch addition over existing impervious surface in the form of the concrete platform also is reasonable and shows consideration for the ordinance's intent and objectives.

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 small at 100' wide at the shoreline and ~165' deep at its midpoint. The cabin was built before the ordinance at a 33' OHW setback. The Ordinance now requires a variance to enlarge a structure such as this that is located in the shore impact zone.

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

Yes (X) No ()

Why or why not? The locality is made up of seasonal residences. The structures on neighboring lots are similar in size and setback to the cabin that is the subject of this application. The proposed screen porch addition will thus not harm the locality's small seasonal residential cabin character.

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 practical difficulty.

Variance Application 51-V-21 by Todd and DeAnna Clennon: Unit 9, Beachwood Estates, Section 9, Township 141, Range 35, Arago Township on Island Lake, a recreational development lake. Parcel 02.51.40900. Applicants are requesting to amend the condition regarding a deck placed on Variance 38-V-21 by changing the proposed deck location. Applicants are also requesting a variance from Section 702 of the Shoreland Management Ordinance to modify the proposed deck location as it is an accessory feature to a nonconforming residence located in a shore impact zone.

Todd Clennon, 1807 9th Street SW, Austin, MN, presented the application.

Grob asked is this a completely new variance, and do we have to void the previous one because it has a new variance number, even though you have already issued a permit for the new construction? How do we handle this?

Buitenwerf explained if the Board would be open to the proposed amendment, I would say in the motion to approve that you would say that if this one is acted upon, the deck as allowed in the prior variance number cannot be permitted.

Grob clarified so we don't have to void the previous one, we just have to note it.

Clennon stated a month or two ago I had my variance approved, and at that time we had the deck on the south side of the cabin as a limited common element. When I got home I started looking at it a little bit more and giving the deck some more attention. After some thought and conversations with my wife, we determined that we put it on what we feel is the wrong side. When looking at the north side, which is what we have here, there is more space between the neighbors. It is the dock side so it flows much nicer going out to the dock and our little area there. We determined that was the correct place for the deck. Also, changing it from an elevated deck to a concrete patio, 10' x 12' off of that north wall of the cabin.

Grob opened for public comment.

No public comment was given.

Grob closed public comment.

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

1. If Variance 51-V-21 is acted on to build a deck on the north side of the structure, doing so will void the deck that was previously approved on the south side of the structure by Variance Application 38-V-21.

Petersen seconded the motion that passed 3 – 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 cabin was allowed to be rebuilt per Variance 38-V-21. That variance allowed an 8' x 10' deck to be built on the south side of the new cabin. The applicants now want to move the deck to the north side of the cabin and enlarge it to 10' x 12'. The new location will not go closer to the lake than the original deck location and will be further from the adjacent cabin than the original deck location was from the adjacent cabin to the south.

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? An exterior deck on a lakeside cabin is reasonable as is a 10' x 12' footprint for such.

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 unit footprint is located in the shore impact zone with no alternate site provided. The unit footprint is very small and doesn't provide space for a deck unless the deck is placed outside of the unit footprint on the common element.

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

Yes (X) No ()

Why or why not? This PUD is large enough that it functions as its own locality. Most of the units in the PUD have been rebuilt since the development was approved ~16 yrs ago and are all different iterations of two story structures that also utilize all the unit footprint. Moving the deck from the south side to the north side of this cabin will not change or harm the residential character of the locality.

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 practical difficulty. The difficulty is the unit footprint is located within the shore impact zone and there is no alternate site provided for it that meets setbacks.

Variance Application 52-V-21 by Sam Wakefield: Lot 8 and part of Lot 7, First Addition to Moccasin Acres, Section 4, Township 141, Range 35, Arago Township on Island Lake, a recreational development lake. Parcels 02.37.40600 and 02.37.40510. Applicant is requesting an after-the-fact variance from Section 902 of the Shoreland Management Ordinance for grading/filling in a bluff impact zone.

Sam Wakefield, 12091 Island Lake Drive, Park Rapids, MN, presented the application.

Wakefield stated what I am looking for is the excavation that is already done and the path to the lake in the bluff zone. When I got the initial permit I was under the assumption that it was already covered in the permit. Being a first time lake owner, I wasn't really aware of what you can do and what you can't do. It is essentially just to keep the path as it is with the dirt on it, plant some grass or natural vegetation, and try to get a water basin before the path just to catch some of the water from the lake cabin so it doesn't erode the path. The plan was to do some water boards with some rocks to stop some of the flow of the water on the path.

Grob added the path is about 8', whereas the Shoreland Management Ordinance requires clearing of 6' and only a 4' walking path, is that correct?

Wakefield replied that was correct at the time that I was notified that it failed. In July I had rented a mini excavator and took the over burden that was making it an 8' path. It is now down to 6'. One small area got down to 5' of a pathway. Some of the other areas that are a little wider, mainly at the bottom, are pretty much level with what the grade was in that area.

Petersen asked I think it was Matt Murray that showed us some materials that could be used in a path situation like this to prevent erosion. I wondered what you thought of that if you remembered what I am talking about and how you think that might work in a situation like this. They were grids that they filled with rock. I am just interested in any of your opinions on a situation like this.

Johnson stated I think it would be the way to go. I know I had talked to the applicant on site, and we were talking about straw matting and getting vegetation growing. You were talking about leaving that cut ridge untouched and letting it grow back. I don't think it would. That is still big enough the way that you are leaving it that a four wheeler is going to be going up and down that naturally, even though it is supposed to be a walking path. We see them all the time and what happens when the four wheeler uses these paths. It is two trenches going down to the lake, especially on the top there where you have the big valley, with no gutters, pouring down it.

Wakefield replied I agree. That is where I would like to get the catch basin for that excess water to stop it from going there.

Johnson asked do you have anything in mind for that path?

Wakefield answered the water boards is what I was told by the SWCD. He told me that water boards would be a good way. It consists of a board or log that is put at a 30 degree angle from the path with rocks in front of it to catch water. I think he had said every 20' – 30', and that would help save me a lot of grief year after year of trying to keep the erosion down. I would think it would be the same thing that you were talking about with the grate. That is something I was thinking about doing by the main cabin was a grate with the rocks in there so that the water can go into the ground rather than just all rush out.

Petersen asked are you open to the idea of reducing the size of this path and making it a walking path as opposed to what it looks like right now?

Wakefield answered yes, right now I think most of it is at 6' except for down at the main level area where it blends into the terrain that is there.

Grob added the Shoreland Management Ordinance would require it to be a walking path no wider than 4'. You can clear 6', but the use could only be 4'. That is what you would have to do. You have talked about a retention pond and doing different erosion control methods. If we were to approve this, we would have to put conditions on it. Are we better off considering tabling it, and ask him to come back with a plan for what kind of material, locations, etc. that he would do to restore it to no wider than 6' clearance and no wider than a 4' walking path? One of our big concerns is making this into a motorized vehicle track on a bluff impact zone. It is not in harmony with what we expect or want. Otherwise it gets confusing, and I don't know what to say for conditions to tell you what to do. I think it is fair for him to come back with a specific plan to restore this to a walking path, non-motorized, but very usable.

Wakefield replied I could get a plan together to tell you on paper what I would be planning on doing.

Johnson added I think it would have to be very specific of what you are going to do.

Grob suggested use SWCD or people who are used to doing restoration projects like this. We need a formalized, documented plan.

Johnson commented I agree.

Grob asked are you open to tabling it with the instructions of coming back with a clear plan of how you will do to restore it to no wider than 6' clearance and no wider than a 4' usable trail?

Wakefield responded I will have to talk with Environmental Services and see what they consider the 4' trail.

Johnson added I would also want a plan for the sluffing off on the side for the way the cut is. Personally, I have seen it forever, and they never heal once that has happened. It is going to sit there, and every spring the runoff is going to cut through it. The plan should be to remedy that too.

Wakefield replied I will check that out and see.

Grob asked Buitenwerf does he have to agree to an extension?

Buitenwerf explained the October meeting would be just barely within the 60 days, so we would send a letter informing him of any motion to table and extend the review window to 120 days from the application date, which would safely allow us to entertain the application in October.

Grob opened for public comment.

No public comment was given.

Grob closed public comment.

Grob made a motion to table the variance application to allow the applicant time to submit a plan to restore the access path to no more than a 6' wide clearing with a 4' wide path within the clearing along with an erosion control plan for the affected area in the bluff impact zone.

Johnson seconded the motion that passed 3 – 0.

Variance Application 53-V-21 by Scott Nyegaard: Lot 9, Little Wolf Shores, Section 1, Township 145, Range 32, Farden Township on Little Wolf Lake, a recreational development lake. Parcel 07.42.00900. Applicant is requesting: Part 1: An after-the-fact (ATF) variance from Section 902 of the Shoreland Management Ordinance (SMO) for grading/filling within the shore impact zone and ordinary high water mark setback that exceeds permissible thresholds. Part 2: An ATF variance from Section 902 of the SMO for removal of part of a permanent ice ridge. Part 3: An ATF variance from Article V, Section 1 of the Subsurface Sewage Treatment System Ordinance and Section 801.4 of the SMO for a holding tank that does not meet the 10' setback from an adjacent dwelling. Part 4: An ATF variance from Sections 502.2 and 702 of the SMO for making a nonconforming dwelling more nonconforming via an addition including exterior decks that causes the dwelling to not comply with the 20' road right-of-way setback.

Scott Nyegaard, 32752 Wolverine Road, Cass Lake, MN, presented the application.

Nyegaard stated the after-the-fact variance for the grading/filling was a new construction process, and moving the gravel and sand from what was now currently a basement in there. I set it in my yard and leveled that. I did not realize that it was beyond the allowable amount. The benefit of that is obviously I have a much more usable and safe parking area off that little private road in there. Originally, they quoted me over \$30,000 to move that sand. That is why I stacked it there and leveled it, knowing that I would have to backfill.

Grob asked how deep is the sand that you put there?

Nyegaard replied on my application it grades from one area to the other. The east side is thicker all the way down to nothing. I would say that I calculated a 15" average across it.

Grob clarified it would be a 15" slope down to nothing.

Nyegaard agreed.

Nyegaard continued the ice ridge I had removed while I was down there removing the earth with the intent to move the last little section of it so that I could get my dock in and out with less difficulty instead of having to go over that hump. That is what the intent of that was.

Grob asked how high was it at its maximum?

Nyegaard answered it was about 12" at its maximum and about 10' long and 4' wide.

Nyegaard continued the third item had to do with the stairs off the deck. That is definitely a mistake of mine. When I put the basement in, I didn't want to have a shallow basement downstairs. The rise over run was larger than what I calculated when I thought through when I put the deck in because I elevated the house up 4'. That rise over run was a mathematical mistake of mine. That comes down within the area too close to the road. It is guarded by trees, so I don't have any concerns about someone hitting it, but that was a miscalculation on my part. I have looked at turning the stairs, but then they come down into the middle of my garage entrance, which leaves me with little option there.

Grob clarified a year ago you got a permit for construction. Your garage and the bedroom and bathroom above it is all new, and the basement underneath the existing structure is new. Was there a basement before?

Nyegaard replied no.

Grob continued there was just 600 sq. ft. and all that other stuff is new. That is where all the dirt and everything came from. You got a permit for that which says it would meet setbacks. What was your assumption at that point?

Nyegaard responded my assumption was that the road didn't have setbacks. I thought it was setbacks from the property lines and those things. As I understand it, and maybe I am inaccurate, but I think there are three different roads that are in that section because there are three different widths of the road from what I understand. It is not maintained by the County at all, it is used by my neighbors and I. Other than that, it is a private road that goes through there that we, as neighbors, maintain. So, I didn't think those setbacks applied, just the property lines and the water marks.

Grob asked Buitenwerf this road falls under the right-of-way requirements?

Buitenwerf answered it is a platted road right-of-way to which there is a 20' setback. It is not maintained by the township, but it was dedicated to the public when the property was platted.

Grob commented when I looked back at the original variance that declared it a buildable lot, the drawings showed a road 33' wide on it, and from the edge of the road it was 39' to the back of your property line. That variance said 10' back from that road, I can only assume that is the edge of the road, for that particular dwelling size. Did you use those in your thoughts about when you built the garage? What was your assumption about how much space you really had to the right-of-way?

Nyegaard replied I guess I didn't know. I just thought that it was approved when I got the first building permit.

Grob clarified so you are saying that the setback, in your mind, was from property lines, not from any consideration of the road setbacks.

Nyegaard responded that is what I understood.

Grob stated the variance was for a 27' x 80' right at the property line, 10' from a road which was 33'. The edge of that road was 39' from the back. If you are 2' from the back line now, and your building is 29', it would be 31'. That would leave you 8', and you would be into the edge of the road. Are you closer than that now?

Nyegaard replied I am not sure.

Grob commented you show 14' to the center of the road and that is why it is hard to understand if they were thinking where the road is or where it is platted. It is hard for us to approve something with a certain setback without knowing where the road right-of-way is, the platted road. The actual road is pretty clear where it is right now. There is a line there.

Nyegaard agreed. There are large 100 year old trees that are on either side.

Grob continued the 4th item had to do with the holding tank.

Nyegaard explained I had to put in a new well and that forced me to move the holding tank. That was a mistake on my part. I did not realize it was a 10' setback. I think it is about 6 ½' or 7' from the edge of the house. When you were there for the site visit you saw the limited area to put the holding tank in and also that it is a concrete foam basement all the way down. The protection from any kind of a mishap is in place. It has been working well since last October/November.

Johnson asked when you got a permit for this, did you get a licensed contractor to do your addition?

Nyegaard replied no. I just moved it myself.

Johnson continued did you get a licensed contractor to move your holding tank?

Nyegaard responded I did that myself.

Johnson asked did you use any contractors for your filling in?

Nyegaard answered no.

Johnson clarified you did that?

Nyegaard replied yes.

Grob asked you did the construction of the house?

Nyegaard answered I did not do the construction of the exterior of the house. Dave Levy Construction did the exterior of the house, and I did all of the work inside.

Grob asked how about the deck?

Nyegaard responded I did the deck.

Grob opened for public comment.

No public comment was given.

Grob closed public comment.

Petersen asked Buitenwerf this is one variance with four parts. Are we going to be answering each of these individually if we were to proceed? I feel we don't know where anything is without a survey of that road right-of-way. I see the drawing here, but it is not verified because we don't know where the road right-of-way really is. My inclination is to table this and get some data that we can rely on here so that we know what we are dealing with as far as that goes. I am wondering if we handle the rest of those items because it is one variance at that time if we have the information that we need on the setbacks? Then we could just handle it all at once, or do you want to handle the other parts of it now and wait on that? I don't see how we can handle the setback without a survey and knowing where that road right-of-way is.

Johnson stated I have an opinion about the septic tank part. The Environmental Services Office has no records of anything that has been done or a permit for what has been done. If we were to table that I would want him to get a design, an inspection, and a compliance. I would be okay with it sitting where it is at. I don't know if we have to vote on that as a variance right now at that 6 ½'?

Buitenwerf explained for us to permit it, you would need to.

Johnson continued I would be okay with that, but I also would like an after-the-fact design and inspection because we would need to see the materials, and you have to pay for a permit to put the tank in or move it.

Grob mentioned I don't personally have a big problem with the sand that was moved, and I don't have a problem with the ice ridge removal. It is the other two things. The setback with the stairs, the building in general, and the holding tank. Is it easier to just table this until he comes back with a couple items, or address the first two and put the other things as tabled? Part of me thinks we should just table the whole thing.

Buitenwerf stated I would say if you are inclined to table it for any of the parts, wait to take action on everything until you do so all at one meeting. The reason for that is then going forward, if there are any questions as to what exactly transpired, we only have to find that meeting's minutes to reference instead of otherwise, years down the road, you are not going to remember that it was acted on at two meetings in sequence.

Grob continued what I am hearing is that to act on this we really need a certified survey that shows where the road is and where it is platted since it has been given to the Township. Where that plat is versus where the road is located is important to us in terms of setbacks. I also think we need a design, inspection, and certification of the holding tank's materials. I will make a motion to table that if you are okay with providing that information. Basically, a survey that shows your dwellings, the holding tank as relative to the platted road and the actual road, and to provide an inspection from a certified SSTS contractor.

Johnson asked would he need the design with the compliance? How would you handle that, Buitenwerf?

Buitenwerf replied with an after-the-fact design and accompanying permit, and then an inspection. We would probably want him to dig down so that we can see the label on the tank so that we can verify what tank is in there.

Johnson continued my question would be, I don't know what the alternative would be, but say that he gets is surveyed from a surveyor and that platted road ends up being really close, would we be wasting time?

Buitenwerf commented given the Board's interest in having a survey, I would wait for that information before proceeding with any action on the holding tank incase that survey shows that there are more issues with the tank location that what are known currently.

Johnson clarified what he needs to do is to have a surveyor show us the platted road and where all the new improvements were.

Grob added the platted road and the actual road. If I recall the way the ordinance goes, you can defer and use the actual road in setting setbacks versus using the requirements from the platted road, right?

Buitenwerf explained no, both need to be met in terms of setbacks. You could have a case where the platted right-of-way is an issue, and then the actual road is closer than the platted right-of-way, and then you would have to meet the setback from both.

Grob stated that is interesting because I am aware of a situation in my neighborhood where the platted road was much further away from a piece of property than the actual, and a person built a big fence right next to the road. They were allowed to do it because a township attorney said that everything was off the platted road, so it didn't matter if it was 5' off the actual road or not. You are saying that we have to meet both?

Buitenwerf agreed.

Grob added you have to provide us information on the platted road, actual road, and a survey that shows the setbacks. Also provide information on the design, materials, and inspection of your holding tank. Buitenwerf, is it the same 120 day extension?

Buitenwerf replied we would, as staff, give notice that we would extend the review period to cover the 60 day requirements. You would need a second yet before voting on the motion. Then clarification on, given that you want the survey, there was talk of holding off on the septic information until the survey was known.

Johnson said correct. We will wait until we find out where everything lays before he is required to do the septic compliance.

Grob asked why?

Johnson explained because it could affect that it may need to be moved.

Grob stated so why spend all that time and money when it might require that it be moved. So, we need the survey.

Nyegaard asked in talks with my neighbors, what would it take to actually make that a non-public road? If that is even possible. There has been discussion amongst us as neighbors seeing as we maintain it. Is there any way to make that a non-public road that would alter the setbacks?

Grob answered I think that it has to go through a legal process to have it vacated.

Buitenwerf agreed.

Johnson asked would that be an amendment to the plat?

Buitenwerf explained it would be a vacation proceeding that you would work with a real estate attorney and go to District Court. Then you would petition for that to be vacated. The surrounding properties that are able to benefit from using that road would have the opportunity to comment. A judge would decide whether or not to vacate it and award the vacated right-of-way to the relevant adjacent lot owners.

Nyegaard said so there is a process that I would have to visit more with you about. I was just wondering if that was an actual process that could be pursued if the neighbors are in agreement with that.

Grob stated you would have to work out the easement situation. Your neighbors are going to want easements across your property.

Nyegaard replied correct.

Grob made a motion to table the application to allow the applicant time to submit a certificate of survey showing the locations of the dwelling unit, holding tank, platted road right-of-way, and the actual road maintained surface locations.

Johnson seconded the motion that passed 3 – 0.

Miscellaneous:

Communications: Buitenwerf stated in October we are looking at roughly a half dozen variance applications plus those tabled items from this month assuming they are able to provide the requested information.

Adjournment:

Johnson made the motion to adjourn.

Petersen seconded the motion.

The motion carried unanimously 3 – 0.

The meeting adjourned at 7:50 p.m.

Respectfully submitted,

Staci Lee

Recording Secretary