

HUBBARD COUNTY

Planning Commission/Board of Adjustment meeting minutes

6:00 p.m. on Monday, August 22, 2016

Chairman Ted VanKempen opened the meeting with the following members present: Ken Grob, Tom Krueger, Tim Johnson and Calvin Johannsen, County Commissioner. Also present was Environmental Services Officer Eric Buitenwerf.

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

Board of Adjustment:

Approval of Minutes: July 25, 2016 meeting.

Grob made a motion to approve the minutes as presented. Krueger seconded the motion that carried unanimously.

Old Business: None

New Business:

Variance Application 30-V-16 by Jesse and Deb Moreno, and Larry Hockersmith: Lot 18, Block B, Pine Haven Beach, Section 17, Township 139, Range 34, Hubbard Township on Long Lake, a recreational development lake. Parcel 14.38.02700. Applicants are requesting a variance from Section 502.2 of the Shoreland Management Ordinance for a proposed shed to be located at less than the 10' side lot line setback.

Jesse and Deb Moreno, and Larry Hockersmith, 13488 Beach Haven Rd, Park Rapids, MN, presented the variance application to build a shed. Our lot is narrow. We are asking for a three foot setback from the side lot line of our neighbor.

Krueger asked if the current shed would be removed.

Moreno replied yes. The current shed is nearly falling down.

Johnson clarified the increased dimensions of the proposed shed are six feet in width and one foot in length.

Moreno responded yes.

VanKempen asked if Moreno considered rebuilding in the same location as the current shed.

Moreno replied the current shed is narrow and the septic system is on the same side. The new shed would overlap the septic tank.

Grob asked if the property line had been verified.

Moreno replied the lot line is marked and he verified the lot line with the neighbors.

Krueger commented he saw the stake and asked if it was the lot line.

Moreno replied yes. The same lot line is staked out with metal posts at various points.

VanKempen asked for public comment.

No written correspondence was submitted.

No public comment was given.

VanKempen closed public comment.

Johnson made a motion to approve the variance application and adopt the staff report findings of fact.

VanKempen seconded the motion.

Findings of Fact:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules?

Yes (X) No ()

Why or why not? The lot is only 50' wide. The existing residence is located at the center of the lot. The septic system drainfield runs along the southeast side lot line. Thus, placing a 10' wide shed at a 10' side lot line setback would put it right in the middle of the lot where the driveway to the cabin is located and thereby interfere with the landowners' access to the cabin. The adjoining landowners consent to the shed being closer than 10' to the side lot line and the shed will be 122' from the OHW. The purpose of the side lot line setback is to provide sufficient margin to ensure a structure is not placed over a property line. The adjoining landowners agree on the property line location and the proposed setback so the ordinance intent of ensuring a structure is not placed over a property line is being met.

2. Without the variance, is the owner deprived of a reasonable use of the property?

Yes (X) No ()

Why or why not? Having a 10' x 12' storage shed on one's property when there is no garage or other storage structure is a reasonable request for storing one's belongings.

3. Is the stated practical difficulty due to circumstances unique to this property?

Yes (X) No ()

Why or why not? The lot is only 50' wide. The residence is centered on the lot and the septic system drainfield runs along the southeast side lot line. The driveway to the residence runs down the center of the lot. Thus, the only place for a shed to be located and not be placed over the drainfield or driveway is along the northwest side lot line.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner?

Yes (X) No ()

Why or why not? The lot is only 50' wide. The residence is centered between the side lot lines and was constructed prior to the ordinance's enactment. The driveway to the cabin runs through the center of the lot. The septic system runs alongside the southeast side lot line. The lot was created by plat prior to the ordinance taking effect.

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

Yes (X) No ()

Why or why not? There is an existing storage shed on the property that will be replaced by this proposed shed. There also are similarly sized accessory storage sheds on neighboring properties. The area consists of single family year-round and seasonal residences. Storage sheds are a common accessory structure seen with such type of property use. Thus, the proposed structure will maintain the locality's residential character.

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

Yes (X) No ()

Why or why not? Economics were not cited in the application as the sole difficulty. The difficulty is 50' lot width, driveway location in the middle of the lot due to the cabin being centered on the lot, and the septic system drainfield's being located along the southeast side lot line.

The motion carried unanimously 4 – 0.

Variance Application 31-V-16 by Michael Hebert: Part of Gov. Lot 3, Section 19, Township 140, Range 33, Nevis Township on Belle Taine Lake, a recreational development lake. Parcel 21.19.02300. Applicant is requesting a variance from Sections 502.2 and 702 of the Shoreland Management Ordinance to replace an existing nonconforming residence in the shore impact zone with a new residential structure possessing a different footprint and dimensions at the same ordinary high water mark setback.

Michael Hebert, 21996 County Road 80, Nevis, MN, presented the variance request to replace an existing nonconforming residence in the shore impact zone. During the site visit, it was explained that I have permittable options to build without the need of a variance.

VanKempen asked if he would like to withdraw the variance application.

Hebert replied yes and clarified his understandings of the current Shoreland Management Ordinance for properties constructed before 1971. The house was built in 1970. It can be demolished and a new structure can be rebuilt, if it is 50' from the water line.

Buitenwerf explained his understanding is correct. A land use permit would need to be purchased prior to the demolition of the existing structure. The statute will allow the structure to be moved further back from the lake. If the structure is moved outside of the 50' shore impact zone, the ordinance allows additions to nonconforming structures that are rebuilt according to the statute. The additions can be made as long as the nonconforming aspect of the structure is not being made more nonconforming. If all lot line and height requirements are met, additions to the structure would be allowed by permit.

Hebert asked if a permit is necessary before demolition begins on the existing structure.

Buitenwerf replied correct.

Hebert asked if there is a timeframe for construction when the permit is purchased.

Buitenwerf explained the permit is valid for one year from the date of issuance. The exterior of the structure would need to be framed and shelled within the time period.

Grob commented the 50 feet would include decks. Keep the size of the deck in mind when it comes to the 50' setback. If the deck is larger than 15% of 50', which is seven and a half feet, you will need to push the house further back.

Buitenwerf commented he would like the Board of Adjustment to acknowledge, recognize and accept Mr. Hebert's withdraw of the application.

VanKempen acknowledged Mr. Hebert's withdrawal of the variance application.

Variance Application 32-V-16 by Salvador and Kathleen DaSilva: Lot 1, Block 1, Steele's Big Sand Lake Lots, Section 22, Township 141, Range 34, Lake Emma Township on Big Sand Lake, a recreational development lake. Parcel 16.59.00100. Applicants are requesting a variance from Section 902.1(c) of the Shoreland Management Ordinance to exceed the permissible 10 cubic yards of material threshold on a steep slope for a retaining wall repair project.

Shannon Henrickson, Touch of Eden Landscaping, authorized agent for Salvador and Kathleen DaSilva, 19325 County Rd 40, Park Rapids, MN, is requesting a variance to repair the failing retaining wall. The existing three car garage is in jeopardy of being lost if proper measures are not taken. The amount of yardage, boulders and fill soil exceed the allowable amount in a steep slope.

VanKempen commented on the necessary repairs needed on the retaining wall.

VanKempen asked for public comment.

No public comment was given.

No written correspondence was submitted.

VanKempen closed public comment.

Grob wanted clarification that the proposed retaining wall repair was outside of the shore impact zone.

Henrickson replied yes. It is 90' away.

Krueger asked if repairs interfered with the property line.

Henrickson responded no.

Krueger made a motion to approve the variance application and adopt the staff report findings of fact.

VanKempen seconded the motion.

Findings of Fact:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules?

Yes (X) No ()

Why or why not? The existing railroad tie retaining wall is failing and thus jeopardizing the garage's structural integrity. The proposed terrace wall will return the slope below the garage closer to the original slope than the sheer vertical railroad tie wall. The project location is ~165' from the OHW and much of the area between the project area and lake is well vegetated so that there should be little cause for concern of storm water-related runoff or sedimentation. Doing nothing to repair the existing wall would be more detrimental to the lake because if the wall fails (which is likely), a large amount of sediment would wash down the slope and the garage could experience structural failure/damage.

2. Without the variance, is the owner deprived of a reasonable use of the property?

Yes (X) No ()

Why or why not? The existing retaining wall is clearly failing. It supports the ground beneath the garage. If the wall would fail, the garage's structural integrity would be compromised. Thus, repairing the wall to make it stable and safe again is a reasonable use.

3. Is the stated practical difficulty due to circumstances unique to this property?

Yes (X) No ()

Why or why not? The garage is located at the top of a steep slope and supported by a vertical railroad tie retaining wall that is failing. The amount of material needed to replace the wall and stabilize the load of the upslope area beneath the garage exceeds the permissible volume and thus requires a variance. The project location is outside of the 100' OHW structure setback and thus only requires a variance because the project is located in a steep slope.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner?

Yes (X) No ()

Why or why not? The difficulty is caused by the garage location on a steep slope and the existing retaining wall's failure.

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

Yes (X) No ()

Why or why not? The retaining wall replacement will maintain the locality's single family year-round and seasonal residential character. It will be ~165' from the OHW and more aesthetically pleasing than the existing railroad tie wall. The wall will barely be visible due to its distance from the lake and the dense vegetation between it and the lake.

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

Yes (X) No ()

Why or why not? Economics were not cited in the application as the sole difficulty. The difficulty is the quantity of material that must be moved in order to properly stabilize the slope beneath the garage and thereby safeguard its structural integrity.

The motion carried unanimously 4 – 0.

Variance Application 33-V-16 by Roger and Kay Strandlie: Part of Gov. Lot 6, Section 2, Township 142, Range 32, Steamboat River Township on Benedict Lake, a recreational development lake. Parcels 24.02.01110, 24.02.01300, 24.02.01700, and 24.02.01810. Applicants are requesting a variance from Section 501.2 of the Shoreland Management Ordinance to create a riparian tract that will not comply with the required 150' lot width at the ordinary high water mark or at the 100' ordinary high water mark structure setback.

Christopher Strandlie, authorized agent, 31881 Lakeview Lane, Laporte, MN, we are wanting to create a riparian tract to clear up easement issues over Tract A. We are in the process of selling our home. The lot that Tract A comes off of is a lot that predates county zoning. There are some controls in place now that weren't in place back then. There doesn't seem to be an impact on zoning. The historical use will not change. Tract A will be of no use to the remainder parcel. The remainder parcel is a larger parcel and meets the setback requirements.

Grob asked what the current easement states. Is it allowing access to the lake?

Strandlie replied it is vague. It says there is an easement over the front parcel.

Krueger asked how the tract got divided into so many different ways.

Strandlie responded it was purchased in pieces over the years. The property is convoluted. It appears to be a jigsaw puzzle from the aerial photo. There are four separate parcels that make up the parent tract that makes a significant sized lot. They need to go together, as the septic and driveway are all tied together.

Krueger asked if two parcels would be the end result of the variance.

Strandlie replied correct.

Johnson asked if the variance is approved and combining the parcels was allowed, would the current easement with you and your wife's name follow with you? For you to have an out lot to cross that piece of land?

Strandlie replied no. The easement would only run with the land. If we didn't own it, it would be extinguished.

Grob asked upon approval of the variance, would the easement over Tract A be vacated?

Strandlie replied yes and there is a tentative purchase agreement on the property at hand.

VanKempen asked for public comment.

No public comment was given.

No written correspondence was received.

VanKempen closed public comment.

VanKempen asked Buitenwerf for direction on what the Environmental Services Office would recommend.

Buitenwerf explained the Environmental Services Office recommends, as stated in the staff report findings of fact, the variance be approved with the condition that the easement be vacated. This can be done by Mr. Strandlie quit claiming the easement right back to his parents. Thus, eliminating the easement entirely.

Johnson commented the staff had a recommendation of combining the two parcels into one.

Grob made a motion to approve the variance application with the following conditions and adopt the staff report findings of fact.

Conditions:

1. Christopher and Erica Strandlie must vacate all of their rights to the recorded easement on Tract A by quit claiming it back to Roger and Kay Strandlie so as to extinguish the easement. Therefore, there will be no possibility for anyone, other than the owner of parcel 24.02.01310 and Tract A, using Tract A.
2. Tract A must be combined with parcel 24.02.01310 to create a single lot by Chris and Erica Strandlie recording a quit claim deed to themselves or to the party that has a currently purchase agreement on the property, with a single property description for Tract A and parcel 24.02.01310 within 60 days of the approval of the administrative subdivision application.

VanKempen seconded the motion.

Findings of Fact:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules?

Yes (X) No ()

Why or why not? Proposed Tract A does not provide any functional value to parcel 24.02.01700 because of its shape and location being in front of parcel 24.02.01310. Both parcel 24.02.01700 and parcel 24.02.01310 are improved lots so there is not the potential for a new lot to be created. An easement exists for the owners of parcel 24.02.01310 to use proposed Tract A and a condition of the variance will be that this easement right be extinguished so as to avoid the possibility of a lake access lot. Tract A will be required to be combined with parcel 24.02.01310 to create a single lot of record so that no substandard tract is created. While doing so will make parcel 24.02.01310 a nonconforming riparian lot in terms of its lot width, the lot is more than double the required 40,000 sq. ft. minimum lot area in size and the house on the lot is ~260' from the OHW. The lot width requirement exists to ensure there is sufficient width on a lot to place a house, well, and septic system at the typical 100' OHW structure setback. This concern has already been addressed by the lot's already being improved.

2. Without the variance, is the owner deprived of a reasonable use of the property?

Yes (X) No ()

Why or why not? The owner of parcel 24.02.01310 seeks to make a riparian lot out of land that is of little use to Roger and Kay Strandlie by combining it with parcel 24.02.01310.

3. Is the stated practical difficulty due to circumstances unique to this property?

Yes (X) No ()

Why or why not? Parcel 24.02.01700 is an odd-shaped tract with the proposed Tract A area being off to the west of the main body of the tract. Tract A, as it lays on the land, is of much greater value to parcel 24.02.01310 because it would make this parcel a riparian lot. Both lots are improved so this subdivision just makes the lots much more usable and does not create a new tract on which a new residence could be constructed.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner?

Yes (X) No ()

Why or why not? The difficulty is caused by the ordinance language for the new creation of new lots not being able to foresee or be written to address each and every possible unique situation such as this one that might be encountered. Here, there are two adjoining improved lots. One is riparian. The other is non-riparian. Part of the riparian lot is not of much use to it because the area lies in front of the non-riparian lot, is less than 100' wide, and is less than 100' deep.

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

Yes (X) No ()

Why or why not? The lot to be created by combining parcel 24.02.01310 with proposed Tract A is larger than many (i.e. 85,932 sq. ft.) and will thus enhance the area. Granting the variance to allow this tract to become a riparian tract makes no measurable change in the area or usage of the lake or anything else of that nature.

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

Yes (X) No ()

Why or why not? Economics were not cited in the application as the sole difficulty. The difficulty is that this is a small piece of ground that is of more value to parcel 24.02.01310 by making it a riparian lot and getting rid of the existing easement over proposed Tract A than it is to parcel 24.02.01700.

The motion carried unanimously 4 – 0.

Closed Board of Adjustment meeting at 6:32 p.m.

Planning Commission:

Approval of Minutes: July 25, 2016 meeting.

Johnson made a motion to approve the minutes as presented. VanKempen seconded the motion that carried unanimously.

Old Business: None

New Business:

Subdivision Ordinance review:

July 19, 2016 County Board meeting minutes.

Correspondence received from Helga Township regarding Ordinance 35, Subdivision and their request for changes was reviewed. A motion by Mr. Smith, seconded by Ms. Christenson and carried unanimously. Ordinance 35, Subdivisions was referred to the Planning Commission for review of the current road frontage requirement in consideration of the addition of meeting subdivision provision recommendation to the board.

VanKempen asked Johannsen to fill the Planning Commission in on the request.

Johannsen explained that the issue is having 150' road frontage in order to subdivide a back lot. Along with needing a letter from township, stating the township would take over the road as a township road. Some of the roads are merely driveways; therefore, clarity is needed in the ordinance as it is not working out as we intended.

VanKempen acknowledged the need in looking into Section 4, Administrative Subdivisions.

Grob asked Buitenwerf why 150' road frontage was placed in the Subdivision Ordinance.

Buitenwerf explained the 150' frontage is seen in several other county subdivision ordinances as a minimum frontage requirement, or something along the line of 200'. Primarily because most counties allow a five acre minimum lot size, with typically a 300' average lot width. That is equivalent to half of the required lot width. Another reason would be, guarding against creation of what we call "flag lots". Where you have a large amount of property, some distance off of the road, and then access to the road is by a very narrow piece of property. What then happens, is a number of those lots in a short distance along a road way would be created. Thus, causing safety concerns with a number of vehicles trying to have access to the main frontage road. Those are the primary considerations leading to that language addition in 2015.

Grob commented that Johannsen indicated the commissioners have a perception that the ordinance is not turning out as intended. On the other hand, as a Planning Commission or Board of Adjustment, we have not had a lot of issues, requests or difficulties as I can recall. Is this a unique request for Helga Township? Is there a particular situation that they are trying to deal with? As we have something that works in general for other townships and counties as well as for ours.

Johannsen responded that it is not working for us. I have had complaints from Helga Township, Arago Township and Todd Township.

VanKempen commented the current Subdivision Ordinance states a maximum of four lots per quarter/quarter section of land shall front on an existing public road. Would this language be

appropriate? As it would allow a certain number of driveways and thus take care of the road safety issue.

Johannsen asked for clarification in the ordinance where it states the township is required to take over the township road.

Buitenwerf explained it is at the discretion of the township if they want to take over a township road.

Johannsen asked if you can still record the lot if the township does not take it over.

Buitenwerf replied no. That would be a requirement for an administrative subdivision. They could have the option of going through a plat, which allows a private road to be created within the development.

Johannsen commented that only leaves two options. It forces them to a plat or the township takes over a driveway.

Grob asked for clarification on the letter from Helga Township.

VanKempen asked for public comment.

Jeff Schussman, 26713 500th Street, Bemidji, MN and Don Clay, 48299 County 36, Laporte, MN, both representatives of Helga Township. Schussman said most of our front lots are sold. We are down to back lot purchases. Our taxpayers do not understand why they have to have 150' of road frontage right-of-way to get back to their lot, when a township or county road can be 33' or 66' wide.

Grob asked if most of the front lots are already taken, how do the property owners have access to the back lot? Do they sign an easement or agreement with the property owner that is already fronted?

Schussman replied that under current circumstances, they cannot get an easement off of a front lot without 150' of road frontage. According to the ordinance, the property has to be 150'.

Grob replied some type of easement has to be in place.

Schussman stated that is why we are here. Because we can't.

Clay replies they are trying to change it from 150' road frontage to 33' road frontage. If we ask for a 33' road frontage, a variance process is the only way around it. In return, the front lot owner has to give up 150'.

Krueger asked if VanKempen's idea of a certain number of easements for driveways per quarter mile would be adequate.

Schussman explained Helga Township has a five acre minimum. Therefore, you would only get four per quarter. Every time we take 150' feet off of a lot, we are continually making nonconforming lots.

Grob clarified that you are looking for a way develop an access to a back lot without requiring 150' road frontage.

Schussman replied yes, we would like to place a standard 33' or 66' easement or right-of-way into the ordinance. Depending on the circumstance or need.

Grob asked if someone wants to build a development and requests an access off of the main road, does Helga Township require approval with the idea that the township may need to take the road over.

Schussman stated the township would not take the road over unless it is built to County specifications, which is 66'.

VanKempen asked Buitenwerf if there are acreage and lot limitations in an administrative subdivision.

Buitenwerf responded no. There is no acreage limit, nor is there any maximum as to how many lots can be created. The ordinance does state that once an administrative subdivision has occurred, the property cannot be further subdivided through an administrative subdivision for five years from the application. The initial application can consist of as many tracts as they wanted.

VanKempen indicated a 33' easement would be adequate for a certain number of lots. If the number of lots increased, a 66' easement would need to be put into place. Possible documentation needs to be added to the administrative subdivision to limit the number of lots and acreage so a 33' easement can be achieved. If there is a potential of expansion, a 33' easement may not be sufficient and may require an increased need of road frontage.

Grob suggested if such an easement is allowed, it should be with the 66' easement to cover every aspect.

Kevin Lindow, Lindow Surveying and Mapping, 1301 Park Ave South, Park Rapids, MN, shared he deals with this particular issue on a regular basis. I have submitted three variance requests in the past year. More variances may be presented, if people are willing to go through the time and expense required to achieve the 33' easement to subdivide a property. I am in favor of a 33' easement. The concern of over development is being controlled by our current ordinance.

Grob clarified that the issue of the 150' road frontage appears to be an unreasonable constraint to back lots.

Lindow explained that there are too many requirements and constraints with the current ordinance.

Grob asked Buitenwerf how Hubbard County compares to nearby counties with this particular issue.

Buitenwerf responded other counties allow easement access. Some use administrative subdivisions to allow a few lots to be subdivided. Minor subdivisions are next and for the more involved, it would move to plats. Administrative subdivisions say as long as you are fronting the road with a new tract, you can break it off easily. When you need to create a road, they typically utilize the minor subdivision process. I agree with the comments that the easement can be effective. However, 33' may not be suitable in hilly areas. The other challenge is the validity of the easement, does it give them access and meet the ordinance requirements.

Johannsen acknowledged the need of road access for someone to develop a larger parcel.

Lindow explained that a land locked parcel will need a road access. It is typically a 33' cartway. At this point, the ordinance is taking away people's rights to subdivide.

Grob asked Buitenwerf if he could draft a 33' or 66' easement option, if and when needed, to accompany the 150' road frontage ordinance for the development of back lots.

Buitenwerf replied yes with guidance from the Board with specific options.

Johannsen mentioned lending agencies are requiring 33' road easements before money can be borrowed. We issue multiple easements under those circumstances.

Schussman commented that Helga Township maintains roads and the right-of-ways that are 33' and have hundreds of houses.

Johannsen mentioned in the 1980s most of the township roads were recorded. Many of them were 66'. Although, they weren't using 66', they did not purchase the right-of-way. They eventually only used the 33'.

Schussman replied Helga Township roads were never recorded. Our roads are what we maintain. We maintain the larger roads the best that we can.

Johnson asked Buitenwerf if there is a remedy to the legal easement concern.

Buitenwerf explained there are two issues that arise in administrative subdivisions. The first issue is when the applicant would submit copies of deeds of what they thought were easements over the property they had to cross to get to what they intended to divide. Some easements can be clear and well written, but may run into legal questions. Therefore, we need contact our County Attorney for clarification. In doing so, we run into timing issues. The second issue is when the easement was a proposed easement. An easement that wasn't approved. Therefore, when the deeds would come through, the easement was not be accompanying the descriptions.

Lindow acknowledged at that time, there were numerous things done that may not have been legit. How many administrative subdivisions are done on a yearly basis?

Buitenwerf replied we average 75 to 100 administrative subdivision applications a year. Of those, 20% had these issues. Where does the easement responsibility fall? Does it fall on the property owner or the buyer?

Johannsen commented the property owners and buyers need to assume responsibility.

Buitenwerf commented if we make it mandatory for the property owner to utilize a surveyor, we will hear complaints about costs.

Johannsen explained without the survey, lots can be difficult to understand or describe.

Buitenwerf replied the survey isn't an issue, as the ordinance requires a certificate of survey when you have a metes and bounds description.

Grob suggested adding a 33' easement to the back lots in the Shoreland Management Ordinance Subdivision Section. Eric, what type of information or guidance are you seeking in writing the ordinance?

Buitenwerf replied he needs clarity of the specific parameters.

Grob suggested two administrative subdivision options. First option could be for the same family or less than two lots. The second option could be more than two lots.

Lindow commented the current Subdivision Ordinance limits the division to four parcels per $\frac{1}{4}$ $\frac{1}{4}$ regardless of the size of the lots. A variance will be needed to subdivide any further. At that point, you can have the opportunity to address the road easement issue if needed or if one exists. If you live in Nevis Township, we have a road ordinance. It must be a 66' road to County specifications and it must be tarred. I think having the right of a 33' access will remedy most situations.

Johnson agrees with VanKempen suggesting a survey requirement with the administrative subdivision application.

VanKempen commented that the goal for the administrative subdivision is to eliminate the need of a variance.

Schussman commented on the second part of the correspondence letter from Helga Township. We have several nonconforming lots. For each of these lots, we have to apply for a variance for every subdivision. We would like to see the right-of-way included in the subdivision.

VanKempen asked for Buitenwerf's take on the situation.

Buitenwerf explained the ordinance states the five acre minimum can include a road right-of-way when the road right-of-way is an easement.

Grob asked if the problem primarily exists on Highway 71.

Lindow replied yes.

Grob asked if the County could do a resolution that exempted properties between point A and point B on Highway 71.

Johannsen responded at the time, a variance is the only way around this problem.

Buitenwerf replied spot zoning would not be beneficial.

VanKempen suggested a 4.5 acre lot minimum requirement for a subdivision.

Buitenwerf commented making the lot size smaller may not leave enough room for a house, well and septic system for the current spacing requirements. Making the minimum lot size four acres solves the current issue, but what happens down the road? You cannot make an exception to specific properties on US 71. The only way around that would be county wide zoning utilizing a county wide land use ordinance.

Grob asked if the actual issue was the drive to fill out the variance application, attend the meeting or the cost. The variance being denied is unlikely in this situation.

Lindow replied several people are not willing to go through the extra paperwork.

Grob acknowledged the only solution is to continue the variance application process.

Lindow suggested platting the property. Several surrounding counties allow 2.5 acre administrative subdivisions.

Grob asked how the commissioners might react if the Planning Commission decided to continue the current process.

Johannsen commented the County Board will make changes regardless.

Grob made a motion to deny the request to review the five acre lot size and keep all the aspects of the ordinance as it is.

Krueger seconded the motion.

The motion passed 3 -1. VanKempen voting nay.

Grob proceeded with the second part of the Subdivision Ordinance review. We could adopt Section 2 (a) and modify it to retain the 150' frontage for front lots and to allow 33' or 66' easements to access the back lots.

Schussman suggested striking 2 (a) entirely and rewriting it by saying each lot shall have a minimum 33' easement. Strike 3 (c) the same exact way.

Johannsen commented that nearly all of the townships have adopted the County road specifications.

Grob commented on the Clearwater County administrative subdivision. It states the proposed lots shall have a minimum of 150' of road frontage if abutting an existing public road or have access to a public over an easement for a private road. That type of easement must be 33'.

Johannsen explained his interpretation of that meant they can get by with 150' lot.

Grob explained he felt they distinguished between what the width should be and the easement itself.

Schussman replied there isn't a need to include a public road. The ordinance states 300' width regardless.

VanKempen asked if the 300' lot width is an average width.

Buitenwerf replied yes. If the 150' minimum frontage was removed, it could allow the lot width to be much less.

Krueger questioned the intent of the 150' as to limit the number of accesses. How would we handle that?

Buitenwerf suggested reviewing the language. At this point it states you can have no more than four lots fronting the road. It does not state anything about interior developments in the section.

Grob explained changing the wording to four access points per quarter section.

Buitenwerf commented that would be acceptable.

Grob suggested keeping the 300' lot width with roads abutting an existing public road and having access to the public road with an easement of a minimum off 33'. (b) A maximum of four access roads per quarter/quarter section.

Buitenwerf suggested limiting the number of properties that can access a road within a given stretch. This will assist in the density issue.

Grob asked if anyone had any arguments why we shouldn't pursue this change.

Buitenwerf replied no. I believe the ordinance could benefit from having a minor subdivision option. There are a few other things that we could review at this time. In other counties, utilities, substations and cemeteries are allowed to be platted without having to go through the full County review process. Seems like unnecessary steps.

Grob asked if minor subdivisions needed to be added into the ordinance.

Buitenwerf clarified the minor subdivision ordinances that he reviewed from surrounding counties covered a range of four to eight tracts.

Grob asked if Buitenwerf would pursue a minor subdivision option and address the 33' or 66' easement issue.

Johannsen agreed 33' would be acceptable in most places in the county.

Buitenwerf suggested a 66' right-of-way be considered based upon topography and accessibility for utility companies.

VanKempen clarified Section 4, Administrative Subdivision 2 (a) each lot shall have legal access to an existing public road right-of-way or a 33' wide easement. (b) a maximum of four lots per quarter/quarter section of land shall front an existing public road.

Buitenwerf suggested including that the easement must be entirely located outside of wetlands.

Johannsen agreed that the old wording clarified what they were trying to achieve.

Grob suggested changing 3 (c) as well.

Buitenwerf acknowledged the need of a little time to refine a draft to be viewed by the Board in November.

VanKempen asked if utilities and cemeteries needed to be addressed at this time.

Johannsen replied yes.

Buitenwerf agreed. For clarification purposes, 2 (a) and 3(c) will revert to the previous language with the addition that the easements cannot be located within a wetland. I will work on the draft to include cemeteries and utilities. I will add "per side" to 2 (b) and 3 (d).

VanKempen asked what a realistic lot restriction should be on a minor subdivision.

Johannsen suggested 5-8 lots. Will you have enough information to have a draft available for the next Commission meeting?

Buitenwerf replied yes.

Miscellaneous:

Communications:

Adjournment:

Krueger made the motion to adjourn.

Johnson seconded the motion.

The motion passed unanimously 4 – 0.

The meeting adjourned at 9:10 p.m.

Respectfully submitted,

Veronica Andres

Recording Secretary