

## **Hubbard County**

### **Planning Commission/Board of Adjustment meeting minutes**

6:00 p.m. on Monday, June 27, 2016

Chairman Ted VanKempen opened the meeting with the following members present: Ken Grob, Tom Krueger, Charlene Christenson, Tim Johnson and County Board Vice-Chair Vern Massie. 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.

### **Planning Commission:**

**Approval of Minutes:** No agenda at May 23, 2016 meeting.

**Old Business:** None

### **New Business:**

**Conditional Use Application 1-CU-16 by Larry & Susan Woodbridge:** Part of SW ¼ of SE ¼, Section 16, Township 140, Range 33, Nevis Township on 6<sup>th</sup> Crow Wing Lake, a recreational development lake. Parcel 21.16.01410. Applicants are requesting a conditional use permit per Section 401, Table 1 of the Shoreland Management Ordinance for a professional services business to operate a massage therapy business.

Susan Woodbridge, 19273 Echo Ridge Drive, Nevis, MN 56467 presented the application as a move from a business office in Park Rapids to a residence, the house next to our house in Nevis.

Christenson asked what the layout plans were for the house.

Woodbridge replied that they are not altering the house other than turning the main bedroom into the treatment office.

Christenson asked where the waiting area would be located.

Woodbridge responded that the waiting area would be in the living room. The bathroom would be the main use just off of the living room. Parking would be in front of the garage.

Christenson questioned the traffic flow.

Woodbridge explained that she is the sole proprietor working on one client at a time, one vehicle at a time. As clients overlap sessions, there may be two vehicles at that time.

Grob questioned the ownership of the property. Clarifying renting or purchasing.

Woodbridge answered yes they will be purchasing the property.

Grob asked if the property would be theirs in addition to the property that they have next door.

Woodbridge answered correct.

Grob stated that no one would be living there and that it would only be for the business.

Woodbridge answered correct.

VanKempen asked what the hours of operation would be.

Woodbridge replied 9:00 a.m. until 6:00 p.m. Monday through Friday with occasional Saturdays.

Krueger asked if every Saturday would be of interest in the future.

Woodridge replied no.

Krueger presented the staff conditions and asked Woodbridge if she has had a chance to look at them.

Woodbridge responded yes, they are acceptable.

Johnson asked about the property being rezoned because it is on the lake as commercial or residential.

Buitenwerf explained that we do not have any particular zoning districts in shoreland. The default is that the residential use is the permitted use and then the professional services operation such as what is being proposed would be allowed as a conditional use permit which is the process that they are going through and applying for tonight.

Grob asked if the current individuals would choose to no longer continue the business, would that void the conditional use permit from anyone else taking over the business or applying another business or does it start over from scratch.

Buitenwerf replied no, the conditional use is a property right that runs with the property just as a variance does.

VanKempen asked for public comment.

No public comment was given.

No written correspondence was received.

Closed public comment.

Christenson asked that if we approve this with the proposed conditions and the property is sold, the conditional use would go with it, but these conditions would also go with it so it would then have to be another massage therapy and limited to the eight conditions. Is this correct.

Buitenwerf answered yes and it would be limited to the eight proposed conditions or any others that the Planning Commission might recommend or fewer and that it would be for a massage therapy business use only. Others could have the ability to apply for other conditional uses if the ordinance allows and they would have interest at a later date.

Christenson made a motion to recommend to the County Board of Commissioners that the conditional use application be approved with the proposed eight conditions and adopting the staff report findings of fact.

Conditions:

1. This conditional use permit (CUP) is for the operation of the entire premises as one professional services massage therapy use venture. As such, any land, that through

subdivision or addition to the property to which the CUP is granted, is added or subtracted, is/are not granted or allowed the right to operate in accordance with the CUP without first applying for and obtaining the necessary CUP from the County.

2. This use is allowed to operate on the following days of the week and times of day: Monday through Friday 9:00 a.m. – 6:00 p.m. and two Saturdays/month 9:00 a.m. – 3:00 p.m.
3. This use can only operate in the existing residential structure located on the property.
4. Only one massage therapy practitioner is allowed to provide massage therapy services per this conditional use permit.
5. No more than twelve customers can receive massage therapy services on any given day.
6. No more than four motor vehicles can be parked outside the house on the property during business hours at any given time.
7. One directional sign identifying the business is allowed to be placed in the NE corner of the property where the property driveway intersects Echo Ridge Drive. No additional business signs can be placed on the property.
8. Access to the property shall only be via Echo Ridge Drive and the existing driveway. No modifications can be made to the driveway approach location onto Echo Ridge Drive.

Grob seconded the motion.

#### Findings of Fact:

1. Is the requested use consistent with public health, safety, and welfare?

YES ( X ) NO ( )

Why or why not? The use will consist of only one massage therapist and average 5-6 patients/day. The business will operate during typical business hours Monday through Friday and on two Saturdays per month. The use will be wholly contained within the existing residential structure. The road providing access to the property is a township road that is ~1/2 mile long. Most of the land along the road is undeveloped and the bulk of the land on the windward side of the road is State forest land. The use will not generate any noise that might impact adjoining properties and the vehicle traffic that will be generated will be negligible and not result in additional maintenance costs for the township in keeping up Echo Ridge Drive.

2. Is the requested use consistent with the goal of preventing and controlling water pollution, including sedimentation and nutrient loading?

YES ( X ) NO ( )

Why or why not? No exterior vegetative or landscape modifications are proposed. The use will be contained within the existing residential structure and customer vehicle parking will use the existing driveway and garage apron parking area. The property is ~325' from 6<sup>th</sup> Crow Wing Lake at its nearest point and the land between the property and lake is heavily wooded.

3. Will the requested use not adversely affect the site's existing topography, drainage features, and vegetative cover?

YES ( X ) NO ( )

Why or why not? As mentioned in the answer to question two above and stated in the conditional use permit application, the proposed use involves no modification of the property's topography, drainage features, or vegetative cover.

4. Is the requested use's site location reasonable in relation to any floodplain and/or floodway of rivers or tributaries?

YES ( X ) NO ( )

Why or why not? There are no FEMA-designated floodplains in Hubbard County. The property is roughly 60' in elevation above the nearest waterbody which is 6<sup>th</sup> Crow Wing Lake.

5. Has the erosion potential of the site based upon the degree and direction of slope, soil type, and existing vegetative cover been adequately addressed for the requested use?

YES ( X ) NO ( )

Why or why not? As mentioned in answers given to previous findings of fact questions, the proposed use will be wholly contained within the existing residential structure on the property and no exterior topographic or vegetative alterations are proposed.

6. Is the site in harmony with existing and proposed access roads?

YES ( X ) NO ( )

Why or why not? Echo Ridge Drive, a dead-end ~1/2 mile long township road, provides access to the property. The property has used this road for access since being developed. The applicants own the lot adjoining this property to the west that is serviced by a driveway that runs along the north boundary of this tract. This adjacent lot is one of four properties that are "downstream" of the driveway to this property on Echo Ridge Drive. The anticipated increased vehicle count on Echo Ridge Drive due to the 5-6 average customers/day to frequent this business should not negatively affect the safety and ability of these other property owners to use the township road nor cause additional maintenance costs for the township in maintaining Echo Ridge Drive.

7. Is the requested use compatible with adjacent land uses?

YES ( X ) NO ( )

Why or why not? The land for a quarter mile to the north of this property is undeveloped open grassland. The land to the northeast is over 80 acres of State forest land. To the east and southeast is a ~40 acre tract of land operated as a resort where the north 20 acres immediately east of the subject property is undeveloped. Two residential lots are located to the south of the property between it and the lake. The applicants own the residential lot immediately west of this property. As the proposed use will occur entirely within the existing residence and customer traffic will average ½ dozen vehicles per day, the use appears to be very compatible with adjacent land uses.

8. Does the requested use have a reasonable need to be in a shoreland location?

YES ( X ) NO ( )

Why or why not? Hubbard County contains hundreds of lakes on which there are a great number of residential structures. It is reasonable to locate a professional services business in proximity to residential clients that it services. The only indications that a business will be operating on the property will be the directional sign at the driveway entrance and the ~half dozen customer vehicles that will travel the road and park in the driveway on any given day. This use will have no impact on 6<sup>th</sup> Crow Wing Lake and fit in with the surrounding residential uses very well.

9. Is the amount of liquid waste to be generated reasonable and the proposed sewage disposal system adequate to accommodate such?

YES ( X ) NO ( )

Why or why not? The septic system servicing the structure on the property in which the business will be housed is compliant and found by the Environmental Services Department to be properly sized for the proposed business use and the sewage volume and strength it will generate.

10. Will the visibility of structures and other facilities as viewed from public waters comply with Section 901 of the Ordinance?

YES ( X ) NO ( )

Why or why not? The property is ~325' from 6<sup>th</sup> Crow Wing Lake at its nearest point, ~60' in vertical elevation above the lake, beyond the ordinary high water mark setback distance regulated in Section 901, and separated from the lake by heavy forest vegetation cover such that the structure is not visible from the lake.

11. Is the site adequate for water supply and on-site sewage treatment systems?

YES ( X ) NO ( )

Why or why not? The property has an existing well and compliant septic system. It is nearly three acres in size and consists of sandy, relatively flat ground that is capable of providing alternate septic drainfield locations if/when needed.

12. Are the affected public waters suited to and able to safely accommodate the types, uses, and numbers of watercraft that the use will generate?

YES ( X ) NO ( )

Why or why not? The use will not generate any watercraft usage of 6<sup>th</sup> Crow Wing Lake.

The motion passed 5 – 0.

**Miscellaneous:** None

Closed Planning Commission meeting at 6:30 p.m.

**Board of Adjustment:**

**Approval of Minutes:** May 23, 2016 meeting.

VanKempen made a motion to approve the May 23, 2016 minutes.

Krueger seconded the motion.

The motion passed unanimously 5 – 0.

**Old Business:** None

**New Business:**

**Variance Application 15-V-16 by Beverlee Olson:** Part of Gov. Lot 4, Section 21, Township 143, Range 34, Lake George Township on Paine Lake, a natural environment lake. Parcel 17.21.01530. Applicant is requesting a variance from Section 502.1 of the Shoreland Management Ordinance to place a platform within the 150' ordinary high water mark setback.

Beverlee Olson, 36514 Notch Pine Trail, Lake George, MN, presenting the variance application as a request to put cement in the walkout part of the house to prevent the soil from washing away. I've been trying to grow grass in that area since 1998 so asking for a cement walkout in that area.

Christenson expressed concerns of extending the cement that far. There is not a lot of room left from where the cement would end and where the bluff begins. What would you do to keep the runoff from going from the edge of the cement where all of the sand is to where the edge of the bluff. Do you have any plans for that?

Olson replied that she planned on letting the grass grow and place a low vegetation or bushes in that area. Currently there are some bushes on the top, three I believe, but plan to add more.

VanKempen explained that it appears that in 1990 the setback was 100' and in 1991 it was changed to 150' setback. What you're looking at would still be within the 100' setback. Is this going to be concrete or paving stone?

Olson replied it would be concrete.

Grob asked if there is any platform area under the second story deck in the front.

Olson replied no we step directly on grass. They had to excavate some of the sand to allow the concrete to be below the door opening.

Grob asked if there is anything under the deck now.

Olson replied no there is none.

Grob expressed concerns about the size of the concrete slab being very large and going to the very edge of the hill and that runoff is of concern. Could you explain to me why it has to be so large. I understand the need for preventing sand from tracking into the house, but what you are asking for seems quite large and it encroaches into the shore impact zone.

Olson agrees that erosion is of concern and important. If bringing that back would be satisfactory, it would be acceptable.

VanKempen asked for public comment.

No public comment given.

No written correspondence was submitted.

VanKempen closed public comment.

Krueger asked if the setback from the bluff is 30'.

Buitenwerf stated that is correct and added that a bluff does not exist on this property.

Krueger explained in looking at the contour lines that it seems steep. How far back are you willing to go with the concrete?

Olson replied from the house to the walkout, she would like to have 20'.

Christenson stated that the staff is recommending 10' x 12'.

VanKempen asked if 12' from the house would be acceptable verses the requested 24'.

Olson replied yes, but it goes wider to the retaining wall.

VanKempen agrees on the 12' measurement, but the 24' x 44' seemed excessive and close to the steep slope. I do understand that with the retaining walls that are there comes out to the 24' so I do understand where your planning comes from. It does get close to the top of the steep slope, but I think 12' would be nice.

Grob asked if the hill has any obvious erosion or existing vegetation.

Krueger replied that he did not observe any erosion and that it is in its natural state.

Grob asked if there was a reasonable amount of vegetation, as the photos are before summer vegetation is up.

Christenson remarked that there was not a lot of grass, but the hillside has natural vegetation and suggests contacting a landscaper and then bring in some dirt to get some vegetation to grow there.

Olson agreed if the concrete was extended 12' from the walkout and then went all the way from one side across to the retaining walls, that would look pleasing. Very workable.

Grob asked if the walls extend from the house.

Olson replied yes.

Grob proceeded to ask as VanKempen was suggesting that the concrete would extend 12' from the base of the house and it would profile the front of the house and not go straight across.

Olson replied that a straight line across would look good.

Krueger clarified that the concrete would extend 12' out from the point of the house.

Olson replied yes.

Johnson commented that he thought the 12' measurement was from the door and not the edge of the house as after stepping that off, the 12' was beyond the upper cat walk.

Grob questioned where the 12' measurement begins.

Christenson explained that the 12' measurement would start at the sliding doors and not the point of the house.

Johnson indicated the measurement was from the point of the house, not the sliding doors. There will be approximately two additional feet on the sides due to the point of the house.

Krueger asked if the agreed measurements would be suitable for the amendment of the application or if additional information would be needed.

Buitenwerf responded that the measurements would be in line with what the department was recommending.

Krueger asked if that would amend the application or do we need further specifications.

Buitenwerf stated that he hadn't heard anything that would clearly state an amendment was being made to the application. If Olson is willing, we may certainly do so.

Olson agreed that the 12' extension would be acceptable.

Buitenwerf requested Olson to state for the record that she is amending her application for the proposed platform to only extend 12' lakeward from the point of the structure.

Olson stated, "I Beverlee Olson agree to amend the application from 24' to 12' from the point of the house and laterally to the retaining walls."

Krueger made a motion to approve the amended variance application for a 12' lakeward platform that can extend the full width between the existing retaining walls 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? It is reasonable to have a sidewalk, deck or platform in front of your house to keep from carrying sand in there and not going up to where the hill starts and that is the intent of the ordinance.

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

Yes (X) No ( )

Why or why not? Having some kind of impervious surface in front of your sliding doors and walkout basement would be a reasonable use.

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

Yes (X) No ( )

Why or why not? The residence was constructed by permit in 1990 when the lake OHW setback was 100' instead of the current 150' setback. The structure has a walkout style basement that has a sliding glass door that faces the lake.

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 due to the residence having been constructed by permit in 1990 at a 100' OHW setback when the lake was classified differently and had a 100' OHW setback at the time. A year later, the lake classification and accompanying OHW setback were changed – causing the structure to become a legal nonconformity that is 50' shy of the required 150' OHW setback.

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

Yes ( X ) No ( )

Why or why not? Paine Lake is a small natural environment lake that has less than two dozen developed lots on it. The requested lakeside platform is a typical accessory structure on residential use properties. While its proposed size is excessive, the slope between the proposed platform site and lake along with the wooded vegetation in this area would not allow the platform to be viewed from the lake. The surrounding low density residential use character would not be harmed by the proposed platform.

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 involves the fact the existing residence is a legal nonconforming structure that was constructed at a 100' OHW setback when Paine Lake was formerly classified as a natural environment residential lake classification that allowed a 100' OHW setback and since construction, the lake's classification and OHW setback were changed to natural environment and a 150' setback.

The motion carried unanimously 5 – 0.

**Variance Application 16-V-16 by Diane Utzman-O'Neill and Michael O'Neill:** Lot 10, Palmer Pines First Addition, Section 29, Township 139, Range 33, Crow Wing Lake Township on Palmer Lake, a natural environment lake. Parcel 06.44.00900. Applicants are requesting a variance from Sections 502.1 and 503 of the Shoreland Management Ordinance for a proposed gazebo and deck addition to a nonconforming residential structure in the bluff impact zone and at less than the 150' ordinary high water mark structure setback.

Diane Utzman-O' Neil, 2936 122<sup>nd</sup> Court NE, Blaine, MN, presented the variance request to construct a stand-alone gazebo which is high end that would be on the east side of the cabin. We would like something that is screened in so it would be cooler for our family. It will be about 3' further away from where the deck ends today. There will be a catwalk that will attach to the gazebo. The reason the variance should be granted is that there will be no environmental impact at least from our perspective of an addition that was put on in 1997. There will be no water or bathroom in the gazebo.

Grob asked why the gazebo needs to be placed directly beside the deck as the requested placement is half the distance from the shoreland setback requirement of 150'. As there is plenty of room on the property that the gazebo can be placed behind the 150' setback. Please try to convince me that you should be able to build it there.

O'Neill replied that if it was back 150' feet, then it would be in the street. The reason that I would like it placed beside the deck with the catwalk is for accessibility. Disagreeing that 150' back would place the gazebo in the street. Also placing the gazebo that far back, you would not have the view of the lake.

Krueger commented that during the lot viewal, there seemed to be plenty of area to place the gazebo other than the requested site.

O'Neill replied that we want it connected to the cabin, we do not want to go out onto the grass and dirt to walk to the gazebo. A stand-alone gazebo away from the cabin is not what they desire.

Krueger suggested that a 4' sidewalk could be built connecting the structures.

O'Neill commented that if it was off the driveway, it would not be connected to the cabin deck. We do not want it to be a stand-alone that is completely away from the cabin.

Krueger stated that you could build a four foot wide skywalk coming down from the deck over to the gazebo.

O'Neill replied that we would not have the same view that you would have if you were even with the cabin.

Krueger commented that it is hard to answer the question "Without the variance is the owner deprived of reasonable use of the property?".

O'Neill responded that if this structure is built back by the driveway, there will be no view of the lake. It would lose the whole purpose and benefit of looking at the lake.

Christenson stated in granting a variance we are legally bound to answering yes to the first six questions, so that is what we are referring to and also we need to be able to answer yes to question four which is "Were the circumstances causing the practical difficulty created by someone or something other than the landowner?".

O'Neill replied yes and the convenience of walking directly from the deck to the gazebo. Otherwise placing it over by the garage you would not be able to go barefoot.

Grob acknowledged the request of wanting the gazebo close to the lake and cabin and explained that they are bound to the rule of a 150' setback. Unless there's a practical difficulty that prevents you from building the gazebo 150' back, then we are compelled to answer no to that question. Which implies we have to deny the variance. There is not a reason or practical difficulty that prevents you from building the gazebo at the 150' setback. We are compelled to answer six questions in a positive yes form and it is difficult for us to answer those as you clearly have the space to build it at the 150' setback.

O'Neill questioned the placement at 150' as they would not have a lake view and would be in the middle of the street. We want to look at the lake.

Grob clarified the 150' setback measurement from the lake leaves you 100' from the road.

O'Neill acknowledged her mistake and commented that they want the gazebo closer to the lake and not at the rear of the house.

Grob understood the request and proceeded to explain that there is not a practical difficulty.

O'Neill replied that her practical difficulty is walking to the rear and not having the lake view.

Krueger asked if O' Neill could see the 150' line that was drawn on the map.

O'Neill acknowledged where the placement of the gazebo could go and disagreed that they would not want it that far back.

Johnson explained that many of these questions could have been answered if you would have been present at the lot viewal.

O'Neill asked if the gazebo could be further back with the cat walk. I do not want a gazebo standing alone in the woods.

VanKempen asked for public comment.

No public comment was given.

No written correspondence was submitted.

VanKempen closed public comment.

O'Neill commented that they could build the cat walk 20' back to attach to the gazebo at a 103' setback.

VanKempen asked if there was a boardwalk or sidewalk along the side of the cabin.

O'Neill responded no, it is pretty hilly with lots of trees.

Krueger mentioned that the Shoreland Management Ordinance allows a four foot wide boardwalk.

Buitenwerf commented sidewalks are allowed at a four feet in width.

Krueger mentioned that a four foot wide sidewalk could be constructed to the gazebo.

O'Neill asked how far back it would need to be.

Krueger explained that the ordinance says 150'.

O'Neill replied that she would not be able to see the lake.

Grob noted that you do have a deck to utilize during the day to view the lake.

O' Neil explained that currently the deck is not screened in and they looked into that option, but the deck is only 10' wide. At this point you are saying the only option that I have to get a gazebo is to push it to the 150' setback and construct a sidewalk to it.

Grob clarified that the 150' setback is from the lake.

O'Neill acknowledges that it would be an additional 67' and no lake view.

Christenson made a motion to deny the variance application and adopt the staff report findings of fact.

Johnson 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 ( ) No ( X )

2.

Why or why not? The lot is 100' wide x ~260' deep and the north half of the lot is flat. Thus, there is ample room to construct the desired gazebo by permit. The application lacks content showing why the gazebo cannot be placed at a conforming location. The cabin already has a 10' deep x 26' wide lakeside deck – which is very reasonably sized.

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

Yes ( ) No ( X )

Why or why not? The lot is 100' wide x ~260' deep and the north half of the lot is flat such that there is plenty of room in which to place the desired gazebo by permit at a conforming location.

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

Yes ( ) No ( X )

Why or why not? The property is good sized at 100' wide x ~260' deep. The north half of the lot is flat and thus conducive to easy construction/placement of the desired gazebo. The application does not cite any practical difficulty in being able to place the gazebo at a conforming setback other than doing so would require a 42' walkway to connect the gazebo to the residence.

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

Yes ( ) No ( X )

Why or why not? The difficulty is caused by the applicants' desire to have the gazebo placed in a bluff impact zone at nearly half the required 150' OHW structure setback. There is plenty of flat area north of the cabin (i.e. behind the cabin) where the desired gazebo could be constructed by permit.

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

Yes ( ) No ( X )

Why or why not? The locality consists of smaller single family seasonal residential use structures. The proposed gazebo and deck extension would create a 56' wide structure in a bluff impact zone at nearly half the required 150' OHW structure setback. Such a structure would be readily visible when viewed from 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 motion passed 5 – 0.

**Variance Application 17-V-16 by Richard Bro:** Part of Gov. Lot 3, Section 28, Township 140, Range 34, Henrietta Township on Long Lake, a recreational development lake. Parcel 13.44.00500. Applicant is requesting a variance from Section 502.2 of the Shoreland Management Ordinance for a proposed garage to be located within the 20' road right-of-way setback.

Richard Bro, 1144 Robin Lane, St. Paul, MN, presented the application as property purchased in 2004. It was a recreational property and then in 2010 we had the mobile home on the property removed and put a year-round home in that location. Our hope is to move up here and to do that we would like to have a garage. We are five feet off, which is why we are requesting a variance.

Krueger asked for the correct dimensions on the garage.

Bro responded that it will be 22' x 22".

Christenson asked if there was a reason that this was not staked out for the lot viewal.

Bro presented a picture that shows where it is staked out. Part of it is on the driveway and the stakes must have fell down.

Grob wanted to know if the long shed had already been removed.

Bro responded yes.

Grob wanted to know if the access to the garage will come directly off the road into the garage or is there another driveway on your property. How will you enter you garage?

Bro explained that since the garage is 22' x22', it is a square, and with some discussion with the builder to have the garage doors towards the street or have them facing south. We want to talk to the builder and see what his recommendation would be.

Grob asked that you are coming off the road and this is a 15' right-of-way, what is the distance from the center of the road to get the right-of-way. The setback has to be 20'.

Buitenwerf noted that we do not know that, the edge of the right-of-way coincides with the rear lot line.

Grob explained that the concern is that when vehicles are parked in the driveway, we do not want them sticking out into the roadway.

Bro explained that it would not be a problem.

Christenson asked where the septic is and would there be room to drive around. There is gravel between the house and septic.

Grob reviewed the photo with the garage staked out and it would appear you are a couple of feet in elevation above your neighbor's property and have concern that once you put the impervious

service of a roof on a garage, that there will be runoff which will go toward your neighbor's property. Have you thought about a rain guttering system.

Bro explained that when he met with the builder, we may have to have some fill to level some things off. It has been addressed and has put as part of the plan.

VanKempen asked if the propane tank is yours or the neighbor's.

Bro replied that is mine.

Christenson asked if the neighbor's lot line is 10 feet from where the concrete ends.

Bro explained that the rocks are on my property.

VanKempen mentioned that at the lot viewal, it was hard to determine if you are 10 feet from the property line or not.

VanKempen asked for public comment.

No public comment was given.

No written correspondence was submitted.

VanKempen closed public comment.

Johnson asked if you agree with the property line setback on the drawing presented with the application.

Bro mentioned that they have had this discussion with the neighbor to purchase additional property if needed.

Johnson mentioned that the drawing really does not represent what is out there and you were not at the lot viewal.

Bro explained that he was not notified of the time of the lot viewal because they had the wrong address on the letter. He did not find out about the lot viewal until the day before.

VanKempen reminded him that they are informed during the application process of all the dates required including the lot viewal. Your 22' x 22' garage, does that include the overhang?

Bro is the cad size of the garage. Depending on the roof lines we would make those setbacks.

Christenson commented that there seems to be a lot of questions on this one.

Grob noted that we have no documentation on the sale of land from the neighbor and mentioned that we can defer this application or deny it since the facts are not documented.

Buitenwerf responded that the applicant can request that his variance application be tabled or the Board could also table the matter and stipulate the items you would like the applicant to complete.

Christenson commented that do we want a survey.

Krueger would like to see lot lines flagged and the garage flagged.

Johnson responded that he would like to see the other side also for the runoff- which way the roof will slope.

Bro asked if he should check with the builder to find out what he plans to do about the runoff.

Grob stated that there are five things that we need more information on if you choose to table this variance:

1. Clearly mark the location of your current property lines for the BOA lot viewal date.
2. Stake out the proposed garage location, including any eave overhangs, for the BOA lot viewal date.
3. Submit a written addendum to the variance application showing how you propose to access the proposed garage – i.e. from the east via the road or from the south via the property's circular driveway.
4. Submit a written addendum to the variance application confirming the south lot line setback or that you will be able to buy a piece of property from your neighbor that will give you the proper setback.
5. Submit a written addendum to the variance application consisting of a proposal for making sure storm water runoff from the proposed garage roof does not encroach upon your neighbor's property.

Grob made a motion to table the variance application pending completion of the five tasks that were stated.

Bro noted that an attorney is working on the purchase of the property next to the other shed that is down there now. A quick claim deed has been submitted to the owner of that property.

Grob amended his motion that you will return with that information in 60 days which would be the August 2016 meeting.

Buitenwerf stated that he would need to know by the application deadline for the effective Planning Commission/Board of Adjustment meeting dates that are on our calendar that is available on our website.

Christenson seconded the motion.

Motion carried to table this variance application unanimously 5 – 0.

**Variance Application 18-V-16 by Kevin Trushcheff:** Part of Gov. Lot 4, Section 16, Township 139, Range 33, Crow Wing Township on 3<sup>rd</sup> Crow Wing Lake, a recreational development lake. Parcel 06.16.03500. Applicant is requesting a variance from Section 502.2 of the Shoreland Management Ordinance for a proposed addition to a nonconforming residential structure that will not comply with the 50' road right-of-way setback.

Kevin Trushcheff, 4420 Quaas Avenue, Watertown, MN, presented the variance application as a current garage is 120' to 150' from the front door and is up a hill. My wife and I are wanting to retire so we would like to put an attached garage on the current home. My hope was to use the current garage for storage. With the winter, the hill presents an issue and is not such a good thing. It would be better to keep the equipment for snow removal down close to the home. Unfortunately, the way the highway runs and the lake runs, there is a corner of that garage that is not 83' from the center line. If I make the garage any smaller, I still would not be able to meet the 83' and it would be short enough that I would not be able to get a vehicle in there. There is also an 8' slab there that is not a

floating slab. It is actually on the footings of the foundation and storage room under it. It is not possible to move it any closer to get out of the variance.

Johnson commented that it was very helpful out on the lot viewal that all the lines were marked.

Krueger mentioned that on lot viewal on the east side of the proposed garage it drops off with the retaining wall there.

Trushcheff noted that we could not put it on the side there because of the bluff and attach it to the house on that side. This seemed to be the only place we could attach a garage.

Christenson commented that on the lot viewal it showed that your garage is a long way from your house and in the winter when it is cold, it would be an issue.

VanKempen made the same comment that where the proposed garage is the best spot to attach to the house since the other would require fill. It was nice that you had all the lines staked out so we could see everything laid out.

VanKempen asked for public comment.

No public comment was given.

No written correspondence was submitted.

VanKempen closed public comment.

Grob noted that you currently have an existing driveway, will you be closing that off or a new one coming into your garage, what would you do with the existing driveway.

Trushcheff explained that he applied with the State for a second driveway location, which was approved to use it as a turn around.

Grob noted that the proposed driveway would swing around and come out the existing driveway.

Trushcheff replied yes, there will be an apron in front of that garage such that I can pull up forward. The existing garage has an extension off the driveway and then curves.

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? This is a large lot with 250' of frontage on the lake, due to the bluff on the one side this could be moved over and meet setbacks. There is only a small corner of the garage that does not meet setback.

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

Yes ( X ) No ( )

Why or why not? An attached garage when one lives at a property year-round in snowy, cold northern Minnesota 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 lot is 134' deep on its southwest side and ~234' deep at its deepest point on the east side of the property. With a 100' OHW setback and 50' road ROW setback, there is not a lot of room in which to locate structures – as evidenced by the historic variances granted in the 70s for the house and detached garage to 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 angle of the road right-of-way was created before the applicant owned the property.

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

Yes ( X ) No ( )

Why or why not? The area consists of single family seasonal and year-round residential structures that are located on equally small size lots that lack depth and are sandwiched between the lake and State Highway 87. Many of the neighboring properties have been granted variances from the OHW setback and/or the road ROW setback due to lack of lot depth. An attached garage is a typical feature seen on residential lakeshore properties. All this said, the proposed garage would be in keeping with what has been done on neighboring properties and would not deviate from the locality's 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 motion pass unanimously 5 – 0.

**Variance Application 19-V-16 by William & Trudy Harper:** Part of Gov. Lot 1, Section 25, Township 144, Range 32, Hart Lake Township on Steamboat Lake, a recreational development lake. Parcel 10.25.02700. Applicants are requesting a variance from Section 506.2 of the Shoreland Management Ordinance for a proposed guest cottage that will exceed the 15' maximum height and 700 sq. ft. maximum footprint requirements.

Bill Harper, 16276 Swede Hill Drive South, Afton, MN, presented the variance application as a request because over time things have changed. When my neighbor put in his mound system, I doubled the size of it so that I could hook up a septic system to it. Now I find out the rules have changed and have to add even an additional link to meet all the requirements. I have put the horse before the cart a little bit in that I already have the septic permit. The old log cabin that is there has no septic system and interferes with my ability to enjoy the property and thus I request a variance

to put in a cabin that is mouse proof and has a bathroom. You can do me a big favor because I would love to have a garage up there and my wife does not want a garage. I did notice that one of the requirements in the ordinance is the height.

Johnson mentioned that the request is different from what the reality is. It would be your primary residence and the existing residence would be a gathering area and a bunk house.

Harper explained that it would be for overflow and have no intention of changing the character of the place. This cabin is to use the fireplace and to be able to enjoy it with friends.

Krueger noted that with a bathroom, why not treat it as an accessory structure.

Harper commented that he could do that, but it would then require me to serve notice of the change in alignment and would further delay a building season for me.

Christenson explained that the Board would have a problem passing a variance for your guest house of 1100 square feet when the ordinance allows 700 square feet. That amount over when it is going to be your primary structure anyway, you might want to reconsider.

Harper asked would that require me to then resubmit and re-appear?

Buitenwerf explained that Mr. Krueger was speaking to a different thing other than what you and I had discussed as to which of the two structures the proposed or the existing to call a guest cottage. What Mr. Krueger was saying is based on your explanation of how you would use that structure, in his mind it would not qualify as a guest cottage, but rather as simply an accessory structure that you occasionally would occupy with friends and enjoy beverages. You would not use it as a dwelling unit as it currently is. If that were to be the case, then there would be no need for a variance application because you would then have a single primary residence on the property along with the old cabin that would be termed an accessory structure.

Harper questioned the accessory building and misunderstood that. What is required procedurally in order to perfect that?

Krueger reviewed that the new building that he wants to build would be the primary structure that meets setback and could get a permit as is.

Buitenwerf noted that we would probably add a condition on the permit that would state the existing log structure would no longer be used as dwelling unit. It would be used as an accessory structure per the Ordinance definition.

VanKempen asked for public comment.

No public comment was given.

No written correspondence was submitted.

VanKempen closed public comment.

Mr. Harper then said he would formally like to withdraw the variance application at this time.

**Variance Application 20-V-16 by Kirk & Cheryl Scholz:** Lot 3, Block 2, Re-plat Delaney Subdivision, Section 20, Township 139, Range 34, Hubbard Township on Long Lake, a recreational development lake. Parcel 14.46.00900. Applicants are requesting a variance from Section 502.2

of the Shoreland Management Ordinance for a proposed lakeside deck on a residential structure that would not meet the 100' ordinary high water mark setback.

Kirk Scholz, 721 East 130<sup>th</sup> Street, Burnsville, MN, presented the variance application as a request to replace an existing deck and make some additional changes to it. The current deck does not have room for a table and dining. At the furthest point, it is about three feet over the 100' mark. With this new plan, about 50 square feet would exist over this 100' mark.

VanKempen mentioned that when they were out on the lot viewal, they appreciated the strings showing where the setback was. So your new deck would be over about three feet.

Scholz replied, yes at the farthest point, this house was built as a hexagon and so with the different angles, it is harder to fit the deck to it.

Grob remarked that the photos show the slope and vegetation, but since there is an encroachment relative to the lake, there may be a possibility to require mitigation for run-off.

VanKempen remarked that it was mostly lawn to the lake, but you did have vegetation by the lake.

Scholz agreed that most of the shoreline has at least ten feet of natural vegetation. Close to the dock is less.

Christenson commented that there was no erosion.

VanKempen asked for public comment.

No public comment was given.

No written correspondence was submitted.

VanKempen closed public comment.

VanKempen asked if the home had gutters.

Scholz replied yes, we are also doing some landscaping to mitigate run-off.

Johnson made a motion to approve the variance application.

Christenson 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 footprint of the expansion is being kept at a minimum and only encroaching three feet.

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

Yes ( X ) No ( )

Why or why not? The current deck is undersized for a reasonable lakeside gathering.

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

Yes (X) No ( )

Why or why not? The structure was built in 1976 and was not allowed for a reasonable deck area.

4. Were the circumstances causing the practical difficulty created by someone or something other than the land owner.

Yes (X) No ( )

Why or why not? The structure was built by the previous owner.

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

Yes (X) No ( )

Why or why not? A lakeside deck is a typical accessory feature on riparian residential structures. Allowing a small portion of the proposed deck expansion to encroach 3' into the 100' OHW setback is not going to change 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 motion passed unanimously 5 – 0.

**Variance Application 21-V-16 by Richard & Sheila Ronnebaum:** Lot 8, Luceth Beach, Section 15, Township 141, Range 34, Lake Emma Township on Lower Bottle Lake, a recreational development lake. Parcel 16.51.00700. Applicants are requesting a variance from - Part 1: Section 502.2 of the Shoreland Management Ordinance (SMO) for a proposed platform to be located at less than the required 100' ordinary high water mark setback. and Part 2: Section 502.2 of the SMO for a proposed detached garage to be located at less than the required 20' road right-of-way setback.

Richard and Sheila Ronnebaum, 19288 Hartman Drive, Park Rapids, explained that in Part 1 he is proposing a garage with a 10' setback instead of a 20' setback as in doing so puts him onto a tar driveway. Rerouting the driveway will put him over his alternate septic site. Part 2 he is requesting a 16' diameter platform around a fire pit.

Christenson recommended reviewing Part 1 and Part 2 separately.

VanKempen agreed to start with Part 1.

Part 1:

Christenson commented that during the lot viewal, she had troubles answering yes to the findings of fact questions as the property already has a deck on the lakeside and also currently has a place for the fire pit.

Ronnebaum replied that existing fire pit requires removal of the furniture to do lawn care. I was wanting to avoid that.

Christenson replied that the problem is that it is in the shore impact zone. Therefore answering yes to the six questions is difficult.

Johnson asked if there was a reason that you could not move it back to the 50' setback.

Ronnebaum assumed he had to go to the 100' setback.

Johnson explained the 50' is outside of the shore impact zone. The rule is 100', but you could request a variance to be closer, but half of the distance of the setback is the shore impact zone. Could you move it back towards the house to be out of that.

Ronnebaum replied yes. I could make an amendment on Part 1 to move that back to the 50' OHW setback.

Grob questioned this being the best shore management practice and questioned the necessity of impervious surface causing additional runoff. Please explain the need for this as you already have benches, swings and other items in that area. Why does it need to be paved?

Ronnebaum replied the platform would be directly over the sand and runoff would run right into the sand. Placing the lawn furniture on the blocks would reduce the need to move them to maintain the lawn. I did not realize the setback could be adjusted to 50'.

Christenson referred to the staff report findings of fact and stated that there is already 526 square feet of platform and deck on the lakeside.

Johnson commented he did not have a platform around his fire pit, but understands the need for one after a rain or to assist in leveling lawn furniture and I do not feel that they harm the lake.

VanKempen asked for public comment on Part 1.

Written correspondence from Robert Tiffany, 19332 Hartman Drive, Park Rapids, MN 56470 is in support of Part 1.

VanKempen closed public comment.

Krueger remarked he is in favor of having it out of the shore impact zone.

Ronnebaum agreed to the 50' setback. He also explained as you move closer to the house you will encounter some slope of the ground and positioning the fire ring there would require a retaining wall.

Grob calculated the request being 750 square feet of impervious surface.

Ronnebaum questioned the measurement to be 250 square feet.

Grob asked if the boathouse was on the lake.

Ronnebaum replied that the boathouse is at the proper setback.

Krueger requested a condition of a no mow zone be placed in the conditions.

Ronnebaum asked how far it would need to be.

Christensen suggested a 10' no mow zone.

Grob made a motion to deny the application and adopt the staff report findings of fact of Part 1.

VanKempen seconded the motion.

Christenson asked Grob if allowing Ronnebaum to move this further back and having a 10' no mow zone would be friendlier to the lake than totally denying it.

Grob agreed, but is still inclined not to as he is not a big fan of impervious surface close to the lake, but if they are willing to move it back to 50' and develop a 10' no mow zone around the lake, then I would withdraw my motion.

Christenson asked Ronnebaum if he understands the no mow conditions.

Ronnebaum acknowledged.

Christenson asked Ronnebaum if it would be acceptable.

Ronnebaum replied yes.

Grob questions if he needed to withdraw his motion or make a motion with those conditions.

Buitenwerf stated the need to act on the original variance request and then you could proceed and entertain a motion as Grob was referring to.

Christenson was opposed to the motion.

The motion passed 4 – 1 with Christenson voting nay.

Buitenwerf restated the need to act on the original request in the direction of approving a modified setback with a now mow zone we will need an action to deny the original request.

Christenson asked VanKempen if they denied the variance as it stated he would have to return with a different variance but in lieu of that he could amend his request and we could act on it tonight correct.

Ronnebaum stated that he amends his request to a 50' setback with a 10' no mow zone on the shoreline on Part 1 of the application.

Part 1: Johnson made a motion to approve the amended Part 1 of the variance application for a platform to be located at a 50' ordinary high water mark (OHW) setback with the following condition:

A 10' deep (i.e. 10' landward from the OHW) no mow zone across the full width of the lot (a 6' wide access to the lake is allowed to be bisect the no mow zone) must be established and maintained indefinitely.

Krueger seconded the motion.

Findings of Fact Part 1:

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? We are keeping them out of the shore impact zone with intent of the ordinance and implementing the 10' no mow zone.

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

Yes ( X ) No ( )

Why or why not? A lakeside platform is reasonable.

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

Yes ( X ) No ( )

Why or why not? The lot was created in 1957 having limited room for lakeside fire pit platform.

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 home and lot predate the ordinance.

5. 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 a single family residences.

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

Yes ( X ) No ( )

The motion passed 4 – 1 with VanKempen voting nay.

Part 2:

Christenson asked what will happen to the shed on the property.

Ronnebaum explained during the lot viewal it was to be removed and relocated to rental properties.

VanKempen noted that the neighbors in the surrounding area did not have detached garages. Are there any detached garages that you are aware of?

Ronnebaum replied the neighbor two doors north has a detached garage.

Grob stated that you already have a fairly large attached garage. The garage that you are proposing is extremely large. What is the purpose of the "L" shape and size intended for?

Ronnebaum explained a property vehicle does not fit height wise in the current garage. If the length of the garage is decreased, it will not leave room for other things.

Grob differentiated the measurements between each section of the garage and questioned which section would the company vehicle be in.

Ronnebaum explained the need of the space for multiple vehicles and a boat.

VanKempen asked for public comment.

Written correspondence from Robert Tiffany, 19332 Hartman Drive, Park Rapids, MN 56470 in opposition of Part 2 of the variance request was received.

Oral public comment: Robert Tiffany, 19332 Hartman Drive, Park Rapids, MN. I currently reside two doors south of Ronnebaum. I submitted a letter on June 17, 2016. I asked the Board to consider the fact that they do have a double attached garage along with a boat house providing opportunity to store water-related accessories. I was unable to be at the onsite visit, but you can clearly see that the proposed garage site is elevated approximately four to five feet above the existing township road. When you drive down Hartman Drive, you will immediately be drawn to this construction. It will be jarring due to the size, construction and "L" configuration as it will be dissimilar to the other residences. I will also add emphasis on the measurements of the township road. This particular township road is 20' dedicated road, not your typical 33' road. In the applicant's photos you can see the survey pin in the southwest corner of the property. It is possible, in the future, if the township road expands they have every right to expand to that pin. That pin is the corner. To come within 10' of the right of way would create sight lines that would be impinged for the neighbor immediately to the south and for us two doors south. As you come around the curve as it presently exists there is difficulty, it is a tight corner. If the sight lines are blocked by a structure that is 10' high, sloping upward there is bound to be accidents. We currently do not have a lot of traffic since it is a dead-end road. The concern is that it is a narrow road. The current construction site will cause run-off to either wash out the township road or the Hansen's driveway. I feel that you cannot answer yes to multiple questions in the findings of fact. In the letter I submitted, I stated that this construction is not harmonious to the general nature of the neighborhood. I acknowledge that there is another detached garage in the vicinity, but it is located near the house as it does not have an additional attached garage. The only other detached garage that comes to mind is the resort. This particular garage is going to be very close to the roadway. I would ask that you take strong consideration to deny it as it will change the look and feel of the neighborhood. The township will have every right to move the road. We do not want a structure above the elevation of the current road as you cannot fill it away from the lake due to the swamp. You will not be able to widen the road from the other direction. I believe the Ronnebaums can comply with the ordinance by projecting out from the present double car garage. Utilizing something that would not create another impervious surface as they already have a paved driveway. They do have alternatives that would not necessitate a variance. I suggest that you cannot answer the questions to grant the variance.

Sheila Ronnebaum, wife of Richard Ronnebaum, 19288 Hartman Drive, Park Rapids, MN, presented and addressed Tiffany's comment on the boathouse that exists on the property. The boathouse is primarily a storage shed. It stores the water tubes and other accessories. You cannot fit a boat in the boathouse. The garage that we are proposing to build is to store our company vehicle along with

our boat and lawn mower. The garage that is attached to the house holds two vehicles and we do not have any additional room for storage. As for the road that we live on, it is a dead-end road and I do not foresee anyone expanding it. To my understanding, Mr. Tiffany had the road closed a number of years and made into a dead-end. As far as the run-off into the property next to us, it is marsh and is already not suitable for building.

VanKempen closed public comment.

Krueger mentioned the company vehicle and the need for the 12' wide doors and questioned what the height of the structure would need to be.

Grob replied ten feet.

Sheila Ronnebaum clarified the company vehicle is a one ton Chevy van and it is taller than their current vehicle.

Ronnebaum explained that he picked the greater part of the road right-of-way with the 20' setback in lieu of the pin that goes back 20' in order to make the 10' side lot line setback. He also commented on the run-off from his tar driveway not making much difference than the run-off from the new garage.

Sheila Ronnebaum commented on the land proposed for the garage as being useless due to the large Norway pines.

Johnson asked when the road was adopted by the township.

Buitenwerf explained a copy of the township resolution that was recorded declared a 66' ROW along the road and it also lists as it was originally platted as a 20' wide ROW in the plat. The Township claims a 66' ROW, 33' either side of the center lane of the roadway.

Johnson asked if the plat and township road were completed at the same time.

Buitenwerf commented he does not believe so. The plat was completed prior to the township resolution being recorded. The length of time the township maintained the road prior to the resolution being recorded is unknown.

Sheila Ronnebaum explained they had discussed this matter with their neighbors, the Hansens, and they assisted in measuring the property line and were in favor of the proposed garage site.

Grob questioned the distance of visibility a vehicle has traveling out of a driveway towards your location. Is there adequate visibility?

Ronnebaum replied according to his calculations you should have 33' of unobstructed visibility.

Grob asked if he was driving down that road going by your driveway, how far could I see. Would I be able to see someone leaving your driveway around the garage?

Sheila Ronnebaum replied the driveway is placed at an angle. As you travel down the road, there is plenty of visibility.

Johnson explained during the onsite visit they had purposely drove to the end of the road and turn around to establish a line of view. We could clearly see that a large building would be in your sight, but visibility of the road is clear.

Sheila Ronnebaum stated that they plan on utilizing materials that are aesthetically pleasing to the surrounding residences and not a metal sided building.

Grob asked the size of the company vehicle.

Ronnebaum replied it was a 1- ton van.

Grob asked if the length was as long as a full size truck.

Ronnebaum replied yes.

Grob commented that the size of the requested structure seems excessive for the size of property. Setback lines may be achieved if the structure was smaller.

Ronnebaum explained cutting off 10' of the structure would change the access of the driveway and place him on the alternate septic site.

Christenson commented on the run-off onto the township gravel road and asked what plan would be used to handle the run-off.

Ronnebaum replied asphalt shingles, rain gutters and drain tile if necessary.

Sheila Ronnebaum stated there is existing boulders and rock currently in place to protect the road from run-off.

Christenson commented that the majority of the trees will be removed and the lot is elevated much higher than the road.

Sheila Ronnebaum replied yes.

VanKempen questioned the location of the alternate septic site and asked if it could be relocated.

Ronnebaum replied he would need to contact Don Unthum for the septic setbacks.

Grob asked if the current garage is a two car garage.

Ronnebaum replied yes.

Grob asked what the measurements are.

Ronnebaum answered 24' X 32'.

Christenson stated the character of the property would be altered if the proposed size structure is erected.

Johnson commented that he would not suggest moving the garage any direction towards the alternate site as every inch counts.

Grob made a motion to deny Part 2 of the variance application and adopt the staff report findings of fact.

Christenson seconded the motion.

Findings of Fact:

## **Part 2**

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

Yes ( ) No ( X )

Why or why not? The lot is 306' deep x 100' wide, level in the rear half of the lot where the garage is proposed, and devoid of any wetlands or steep slopes that would impede construction on the portions of the lot that meet setback requirements. There already is an attached garage on the house and a boathouse and detached storage shed for storage space. The desired garage is quite large at 32' x 40' maximum footprint and could either be moved ten feet further from the road ROW without much trouble or scaled down in size from 40' long to 30' long and thereby meet the setback.

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

Yes ( ) No ( X )

Why or why not? There is an attached garage on the house and a lakeside boat house and a storage shed in the rear of the lot provide additional storage space so it is not a case where there is no garage or storage space on the lot presently. The proposed garage is quite large at 32' x 40' in maximum dimension. If it was scaled back to 32' x 30' – which is still a large and very reasonable second garage, it could be built in compliance with the 20' road ROW setback.

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

Yes ( ) No ( X )

Why or why not? The lot is 306' deep and 100' wide. The lot does not have any wetlands on it and the topography is relatively level on the rear half of the lot where the garage is proposed so there are no topographic constraints as to where a garage could be placed.

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

Yes ( ) No ( X )

Why or why not? The lot is 306' deep x 100' wide, relatively level, and devoid of wetlands. The alleged difficulty is caused by the applicants wanting to build a large 32' x 40' structure that if scaled down to 32' x 30' (which is still a large garage), would be able to meet the 20' road ROW setback.

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

Yes ( ) No ( X )

Why or why not?

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 motion passed 4 – 1 with Johnson voting nay.

**Variance Application 22-V-16 by Kirk & Elizabeth Stifter:** S1/2 of NW ¼ of SE1/4, Section 8, Township 139, Range 32, Badoura Township on Nagel Lake, a natural environment lake. Parcel 03.08.01100. Applicants are requesting a variance from Section 506 of the Shoreland Management Ordinance for two proposed guest cottages that do not meet the 150' ordinary high water mark setback.

Kirk and Elizabeth Stifter, 255 - 116<sup>th</sup> Avenue NW, Coon Rapids, MN, presented the application as construction of a year-round home and wanting to turn the current seasonal cabin into a guest cottage to use while the home is being constructed.

VanKempen clarified the house that you are proposing to construct will meet all setback requirements and this variance will not affect it. The variance affects the two dwellings that are within the 150' OHW setback and you are requesting to keep both of them during construction with the exception of removing one of them after the new home is complete.

Stifter replied yes.

VanKempen asked if there was an estimated completion date on the construction.

Stifter replied there could be if needed.

VanKempen asked for public comment.

No written correspondence was received.

No public comment was given.

VanKempen closed public comment.

Grob noted his appreciation to move the cabin and added that sufficient time needed to be given in order to do so.

Elizabeth Stifter replied April 30, 2018 as a projected date - thus giving them sufficient time to construct the year-round home.

VanKempen asked when the two existing cabins were built.

Stifter replied 1956 and 1968.

VanKempen noted both cabins were built pre-ordinance.

Grob made a motion to approve the variance application with the condition that the 14' x 18' cabin built in 1956 be moved to a conforming location by April 30, 2018 and thereafter be used as a non-dwelling unit and adopt the staff report findings of fact for questions 1, 2, 3, 5, and 6.

Krueger seconded the motion that passed 5 – 0.

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 two dwelling units are currently in compliance with dwelling unit density requirements for guest cottages. The request is a temporary one for no more than a year in order to allow a new primary residence to be constructed. The smaller existing dwelling unit would then be moved to a conforming location and converted to a non-dwelling unit use – which would then make the property conforming again in terms of dwelling unit density. Also, during most of the one year timeframe, the primary residence will not be habitable as it will be in various stages of construction. The long-term dwelling unit density will not change and in exchange for this temporary variance, a structure that does not meet the OHW setback will be moved to a location that does meet the setback.

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

Yes ( X ) No ( )

Why or why not? The two existing dwelling units total 804 sq. ft. – which is smaller than most single residential structures today. Being able to occupy these two structures while a new primary house is built 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 two structures predate the ordinance. A third residence – a mobile home – formerly was on the property. Had it been kept, no variance would be needed to replace it with the new proposed primary residence. The applicants simply were not aware of the technical details of the grandfathered status of the three residential structures on the property. Had they been aware of such, then a permit could have been issued for the proposed new primary residence and it could have replaced the mobile home without need of a variance and the applicants would not have needed to volunteer to move the smaller existing cabin to a conforming setback and convert it to a non-dwelling unit use as a voluntary mitigating condition for this variance application.

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

Yes ( X ) No ( )

Why or why not? A third structure was removed which caused the practical difficulty, full knowledge would have allowed it to remain.

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

Yes ( X ) No ( )

Why or why not? The area consists of low-density single family seasonal use residences. There were three residences on this property for decades until just a few years ago. Allowing three residences to be on the property for a one year maximum time frame with one of the

structures not be habitable for much of that period will not harm the locality's character. At the end of the year, the smaller existing dwelling will be moved to a conforming setback and converted to a non-dwelling unit use – which will only improve the essential 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 motion passed unanimously 5 – 0.

**Variance Application 23-V-16 by Gary & Janet Christiansen:** The W1/2 of the NE ¼, Section 22, Township 145, Range 33, Helga Township. Parcel 11.22.00110. Applicants are requesting a variance from Section 4, Subd.A.2.a of the Subdivision Ordinance to create a tract that will not comply with the 150' minimum width of public road right-of-way frontage requirement.

Gary and Janet Christiansen, 2515 N Plantagenet Road SW, Bemidji, MN, presented the application as wanting to divide the property for our children to build on. We are requesting an access to the second lot utilizing an easement.

Christenson proposed a condition on the variance to not allow the lots to further subdivide.

Gary Christiansen questioned the request and asked for clarification.

Christenson explained if the property was subdivided further, the property owners would not have access to County Road 9.

Gary Christiansen acknowledged the concern of the access and expressed his concern in taking away options for his children and grandchildren as they may want to subdivide in the future for themselves.

Krueger questioned standards on the measurements of public road.

Buitenwerf explained that there is not a standard requirement. It is up to the township to set the standard.

Krueger asked what the standard is for this township.

Buitenwerf replied he is unaware.

Krueger questioned utilizing a 60' easement as they may not be set back far enough from a regular development road. Subdividing in the future will require a road approved by the township.

Gary Christiansen explained that after talking to Helga Township, they recommended a 33' easement. I requested a 60' easement to give additional length for future development.

Grob questioned that possibly the township meant 33' from each direction. Maybe there was a misunderstanding.

Gary Christiansen agreed that there may have been a misunderstanding. I could change the measurement to 66' to simplify things.

Krueger commented that requesting a township road would be the most effective route to go if you plan on subdividing in the future.

Christenson asked if Helga Township has a road ordinance.

Gary Christiansen replied not that he is aware of.

Grob explained that putting a condition on the variance does not mean forever. In the future when you have more specific plans for the property, an additional variance could be submitted.

Gary Christiansen acknowledged and agreed.

VanKempen asked for public comment.

Written correspondence was received from Andrew and Patrice Meemken, 1607 Devon Road, St. Cloud, MN, 56303 in opposition to the variance request.

Christenson noted the correspondence did not provide a reason for their opposition.

No oral public comments were received.

VanKempen closed public comment.

Johnson asked if Helga Township has a minimum subdivision that is more restrictive than the county.

Buitenwerf replied to his knowledge the standard is a five acre minimum with a 300' average width requirement.

Johnson stated he thought the minimum acreage was ten.

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

1. The easement to proposed "Parcel B" must be 66' wide.
2. The property cannot be further subdivided in the future.

Grob 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? This is a flag shaped 48.6 acre tract that has a full 40 acres located ¼ mile in the interior of the section. The nearest public roads aside from County 9 that adjoins the north boundary of the tract are ½ mile to the west (i.e. Hwy 71) and ½ mile to the south (i.e. 480<sup>th</sup> Street). A 60' wide easement is being provided to the proposed tract that will not have public road frontage and the property is flat and devoid of any wetlands in the area where the access easement is proposed. A condition is being placed on the variance that will not allow the property to be further subdivided as a means of ensuring the easement is only used to provide access to one tract and possibly residence and no more. It would be an undue difficulty on the landowner to say he cannot subdivide 40 acres interior to the section into two tracts when he is providing a more than adequate easement for access to Parcel B.

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

Yes (X ) No ( )

Why or why not? Being able to subdivide a 48.6 acre tract into a 29.6 acre tract and a 19 acre tract is a reasonable use of a property that largely consists of a landlocked 40 in the section interior. The nearest public road aside from County 9 that abuts the property on the north end is Highway 71 which is ½ mile to the west or 480<sup>th</sup> Street which is a half mile to the south. The nearest public road to the east is 1 ¼ miles away.

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

Yes (X ) No ( )

Why or why not? As stated in the answers to questions 1 and 2 above, the property is 48.6 acres with the bulk of the acreage being a full 40 acres in the interior of the section. The 8.6 acres of the tract adjoining the public road (County 9) is only 330' wide. While it appears this north portion could be divided in two so that each proposed parcel would have 150' of public road frontage, doing so would then require a township variance as the township ordinance requires a minimum 300' lot width.

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 due to the remote location of the property as described in the answer to question 3 above. The landowner did not create the tract and is not responsible for the lack of available public roads near the property.

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

Yes (X ) No ( )

Why or why not? The locality consists of a mixture of 5-10 acre residential tracts and then much larger tracts of 40 acres or greater that are undeveloped. Allowing a 48.6 acre tract to be subdivided into a 29.6 acre tract and a 19 acre tract will not harm the locality's mixed larger residential rural tract and large undeveloped forested tract composition.

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 involves the property's unique flag shape and the lack of nearby or adjoining public roads.

The motion passed unanimously 5 – 0.

**Variance Application 24-V-16 by Brian Wetmore, Green Valley Resort LLLP:** Part of Gov. Lot 6, Section 15, Township 140, Range 33, Nevis Township on 7<sup>th</sup> Crow Wing Lake, a recreational development lake. Parcel 21.15.00410. Applicant is requesting a variance from Sections 701 and 1102 of the Shoreland Management Ordinance to expand a nonconforming use and exceed the allowed Tier 2 rental unit density.

Brian Wetmore, 19586 County 13, Nevis, MN, presented the application as a variance to exceed the allowed Tier 2 rental unit density. He would also would like to build a home and add five additional campsites.

Christenson asked if he recalled the discussion of the primary residence being on Tier 2 and utilize the current home on Tier 3 to be used as a rental unit during the onsite visit.

Wetmore agreed that route was suitable.

Christenson asked if Wetmore needed to make a formal amendment to the application.

Buitenwerf replied that Wetmore stated that he would continue to use the structure as a rental occupied by his father. No further action is needed.

VanKempen asked for clarification on the rental home.

Christenson replied the existing house will become the new rental in Tier 3.

Buitenwerf replied yes.

Christenson commented that there is ample vegetation in Tier 2 that would control run-off.

Wetmore explained that leaving the vegetation on the hillside also provides a form of privacy for the tenants.

VanKempen asked for public comment.

No written correspondence was received nor were there any oral public comments.

VanKempen closed public comment.

Grob asked if Tier 4 existed to alleviate the density in Tier 2.

Wetmore referred to the picture that identified the capacity in each tier.

Christenson stated the only thing in Tier 3 will become a rental.

Wetmore explained Tier 2 will have expanded rental units.

Grob asked if the rental units are seasonal or permanent.

Wetmore replied yes, some renters leave the campers all winter and return in the summer. The entire resort is seasonal and is closed in September every year.

VanKempen asked if the proposed sites in Tier 2 would be towards the back away from the lake.

Wetmore replied yes.

Grob questioned if the existing campsites Z-3 though Z-12 are RV sites.

Wetmore explained yes and mentioned C-1 and C-2 are not permitted for seasonal RV sites.

Grob questioned if people camp out of sites C-3, C-4, C-5 and C-6.

Wetmore replied they are seasonal camp trailers.

Grob asked if they are removed in the fall.

Wetmore replied no.

Grob clarified the RV trailers stay permanently, but the tenants are seasonal.

Grob asked if the property meets size and septic requirements.

Buitenwerf clarified the site would have to have 3000 square feet and the unit itself for the density calculation is assigned a 400 sq. ft. size.

Wetmore replied that it is close.

Grob questioned the Board of Health requirements.

Buitenwerf replied he is unsure of the Department of Health requirements.

Christenson asked if the RVs are licensed, technically permanent RVs are required to be licensed and paying taxes.

Wetmore replied yes.

Christenson made a motion to approve the variance application with the condition that the proposed Cabin 11 in Tier 2 must be used as the owner's residence (and not as a rental unit) and the existing Tier 3 owner's house may be converted to a rental unit.

Krueger 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? Due to the layout of the land, it is hard pressed in spots to put these locations into Tier 3. There is enough natural vegetation in Tier 2 between the new sites and the grass area to handle any run off.

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

Yes ( X ) No ( )

Why or why not? In this competitive world of resorts the owner needs to expand to be profitable and meet needs to keep the resort open.

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

Yes ( X ) No ( )

Why or why not? In regard to the Tier 3 steep topography not being conducive to the installation of the rental unit sites allowed by the density analysis.

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

Yes ( X ) No ( )

Why or why not? Tier 3 was created by glaciers.

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

Yes ( X ) No ( )

Why or why not? The area has been a resort for a long time and we would like to keep resorts open and operating. In order to achieve that they need to be competitive and expand when possible.

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

Yes ( X ) No ( )

Why or why not? The Tier 3 topography consists of some steep slopes that are not conducive to the placement of RV sites or allowing resort guests to easily access such sites for ingress and egress.

The motion passed 4 – 1 with Grob voting nay.

**Variance Application 25-V-16 by Woodrow Duranske:** Part of Gov. Lot 4, Section 30, Township 143, Range 32, Lakeport Township on Kabekona Lake, a recreational development lake. Parcel 19.30.01200. Applicant is requesting a variance from Sections 502.2, 503, and 702 of the Shoreland Management Ordinance for a proposed addition to a nonconforming residence located in the bluff impact zone.

Jason Strom, Spitzack Builders, Inc., 8332 State Hwy 371 NW, Walker, MN, representing the application for Woodrow Duranske, 35074 Mohawk Drive, Laporte, MN. We are requesting the removal of a nonconforming structure and 3' X 28' addition to expand the kitchen and bathroom, and fully enclosed the existing covered porch.

Grob asked about the partially constructed platform or deck.

Strom replied it was a pre-existing structure that the landowner is re-decking.

Grob asked if a permit was needed to replace decking.

Buitenwerf replied no.

Christenson asked Strom to state for the record what he plans on using for footings as the structure has a full basement under the proposed expansion site.

Strom explained he is installing cross footings tying into the existing structure.

VanKempen asked for public comment.

No written correspondence or oral comments were received.

VanKempen closed public comment.

Christenson commented that the proposed construction is minimal and appears to have plenty of vegetation to handle the run-off.

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

Grob 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 house is a legal nonconformity that was constructed a year before the bluff regulations were created. The covered porch will simply be enclosed and the addition is only three feet wide and running along the side of the structure. Thus, the overall impact to the bluff will be minimal and most of the addition will be located outside of the bluff impact zone.

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

Yes (X) No ( )

Why or why not? Enclosing the covered porch so that it functions as an entryway/mud room is a reasonable use as is bumping out the west side of the house to allow for a larger kitchen and bathroom.

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

Yes (X) No ( )

Why or why not? The structure was constructed by permit in 1990 – one year before the bluff regulations took effect. The NW corner of the house sits in the bluff impact zone as it is 20' from the crest vs. the required 30'. The ordinance requires that any addition to a structure located in a bluff impact zone be processed through a variance.

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 the fact the structure was constructed by a previous owner in 1990 – one year before the bluff regulations were added to the ordinance.

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

Yes ( X ) No ( )

Why or why not? Kabekona Lake is classified as a recreational development lake. The area is a mixture of larger lots surrounded by smaller platted lots to the north and southeast. The property use is seasonal and year-round single family residential. The proposed 3' x 26' addition along the side of the house and porch enclosure will not harm the locality's 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 involves the fact that the house was constructed one year prior to the bluff regulations being created and it being located 10' into a bluff impact zone.

The motion passed unanimously 5 – 0.

**Variance Application 26-V-16 by Dale Wynia & Gina Lundberg:** Lot 6, Block 1, Island Bay, Section 15, Township 141, Range 33, Mantrap Township on Crooked Lake, a natural environment lake. Parcel 20.55.00600. Applicants are requesting an after-the-fact variance from Section 502.1 of the Shoreland Management Ordinance for a residential structure that does not comply with the 150' ordinary high water mark and the 10' side lot line setbacks.

Dale Wynia and Gina Lundberg, 89103 240<sup>th</sup> ST, Austin, MN, presented the application as it has been brought to their attention that the cabin that they have is either on or too close to the State property line. I believe the Department of Natural Resources did some measurements and they do not match the stakes that I found. Moving the cabin to meet setbacks will not be a problem. Current measurements are 165' from lake shore, west side lot setback 150', east side lot setback is 138'. I am unaware how close the cabin is to the State line. If the structure needs to be moved, I am willing to have that taken care of in 90 – 120 days.

Krueger asked if he has a spot in mind for the new location.

Wynia replied yes, he has a spot in mind if it only needs to move 10' – 12'.

Johnson asked if he noted where the lot lines are located.

Wynia replied when he viewed the map with the Environmental Services Technician Bryan Haugen, the lot line was undetermined. While there, a few stakes were found that seemed to line up with the map.

Johnson asked if they had moved the cabin from down below to where it sits now.

Wynia replied yes and apologized for not obtaining a permit as he was under the assumption that movable small structures did not require a permit.

Johnson stated that during the onsite visit it appeared that you could meet all of the required setbacks.

Wynia questioned meeting the setback with the OHW.

Johnson asked if the Environmental Services Technician Bryan Haugen, delineated the wetland on the property.

Buitenwerf demonstrated on the map an area that is part of the lake.

Johnson asked what the measurement is from the wetland to the highest knob on the topography.

Wynia replied his measurement is 138'.

VanKempen asked for public comment.

Mark Carlstrom, Department of Natural Resources Area Forestry Supervisor, 607 1<sup>st</sup> Street, Park Rapids, MN, was contacted by the Environmental Services Office to locate the property line between the State property and the Wynia property. The DNR staff had been working with the previous owner to locate this same property line. The State line was established and the cabin is fully on State land. We are willing to work with the owners and show them where the lines are located. At this time, we are requesting this application be denied or tabled until the trespass matter is resolved.

Gerald "Mike" Lein, 513 Casper Circle, Norwood Young America, MN, as the current owner of Lot 2 and I strongly suggest that you deny this variance as it is a natural environment lake and we request the current regulations and setbacks be enforced.

Written correspondence from Gerald "Mike" Lein and Marceil Lein, 513 Casper Circle, Norwood Young America, MN 55368 in opposition to the variance request was received.

VanKempen closed public comment.

Grob noted that the cabin had been moved before and asked why he failed to contact the Environmental Services Office to get the proper setbacks and permits needed.

Wynia explained that he thought since it was a temporary structure he was under the assumption it had different setback regulations. In the future, when we retire we are hoping to build a permanent structure. At this point we do not want to set it 400' to 500' away as we would not have any view of the lake. We do not have water, electricity or sewer. I acknowledge that I should have purchased permits. I will do whatever it takes to make it legal. I was only going by the stakes that I found.

Christenson noted that they cannot accept the variance as the Department of Natural Resources claims it is on State land. It may be denied or tabled.

Grob commented since it will need to be removed off of State land, then you should clearly be expected to move the cabin to where it also meets the 150' setback or apply for another variance.

Buitenwerf explained that there are no setbacks from wetlands. There appears to be some type of wetland there and the boundaries would need to be ascertained by a delineator.

Grob asked who would determine the area of the wetland.

Buitenwerf replied a certified wetland delineator.

Johnson asked if that would be the owner's expense.

Buitenwerf replied yes.

Wynia questioned if a wetland is present.

Buitenwerf confirmed that a wetland is present, but where it starts and stops needs to be determined by someone who is licensed certified as wetland delineator.

VanKempen clarified that there are no setbacks from the wetland.

Buitenwerf replied that is correct.

VanKempen made a motion to deny the variance application and adopt the staff report findings of facts.

Grob 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 ( ) No ( X)

Why or why not? The lot is 200' wide x ~1000' deep and is largely high ground aside from a ~13,000 sq. ft. wetland on the east property line roughly 110' north of the lake. The structure was moved by the applicants from its original location since notified by the Environmental Services Department that it was in violation of the Shoreland Ordinance's setback requirements. These two items show that the structure can be moved to a conforming location and be handled by a permit. Thus, granting a variance when a permissible solution exists would not be in harmony with the ordinance intent.

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

Yes ( ) No ( X)

Why or why not? As mentioned in the answer to question 1, the lot is 200' wide x ~1000' deep and 5.1 acres in size. The only non-buildable area on the lot is the ~13,000 sq. ft. wetland mentioned in the answer to question 1. There is ample room on the property that meets all setbacks where this structure could be placed by permit. The lot is also able to be used to access the lake and enjoy the outdoors – both of which are also reasonable uses in addition to the structure being able to be placed at a conforming location which is also a reasonable use.

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

Yes ( ) No ( X)

Why or why not? The application alleges no unique circumstances as to why the structure cannot be placed at a conforming location. The lot is 200' wide x ~1000' deep – i.e. 5.1 acres in size. Aside from a 13,000 sq. ft. wetland on the lot, the lot facilitates placement of the

structure in multiple other areas that are similar to where it was originally or currently placed in terms of topography. The lot is similar in size and topography to the other lots in this plat and structures have been placed on each of the other lots in the plat at conforming setbacks.

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

Yes ( ) No (X)

Why or why not? As mentioned in the answers to previous questions, there is ample room on the lot where the structure could be placed at a conforming location by permit and still leave room for the mentioned planned permanent structure to be placed also at a conforming location when the time comes. The lot is 5.1 acres in size. The structure has been moved since originally identified by the Environmental Services Department to be at a nonconforming setback and it is on a nonpermanent foundation so it has the potential to be moved again.

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

Yes ( ) No (X)

Why or why not? The plat in which this lot is located was created in 1994 at a time when the current lot size and setback requirements were in place. All the other lots in the plat have been developed after the plat was created and thus the structures on each lot comply with the 150' OHW setback and side lot line requirements. The ability to do so with this structure on this lot exists. Thus, it would not maintain the locality's single family home residential character if this structure was allowed to be located at less than the required OHW and side lot line setbacks.

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

Yes ( ) No (X)

Why or why not? None are cited.

7. Why did the applicant fail to obtain a variance/or comply with the applicable requirements before commencing work? Did the applicant act in good faith?

Yes ( ) No (X)

Why or Why not? The applicant did not get a permit. He thought he didn't need one for a temporary structure.

8. Did the applicant attempt to comply with the law by obtaining the proper permits?

Yes ( ) No (X)

Why or Why not? No. No permits were obtained before the structure was originally placed on the lot or when it was moved to its current location after having been identified as a violation by the Environmental Services Department.

9. Did the applicant obtain a permit from another entity that violated the law? No.
10. Did the applicant make a substantial investment in the property? Provide details below.  
No. This is a 12' wide x 24' long x ~15' high seasonal rustic structure that is not on a permanent foundation and does not have indoor plumbing. There is room on the property to move the structure to a conforming location that can be permitted. Thus, whatever investment that was made in the structure need not be lost.
11. Did the applicant complete the repairs/construction before the applicant was informed of the impropriety? Please provide details below.  
The Environmental Services Department photo dated 6/25/2014 submitted for the record shows that the structure was erected and roofed and sheathed with windows and doors in, but not sided and the lakeside deck was not yet constructed at the time the department first visited the property regarding this violation.
12. Are there other similar structures in the neighborhood? Please provide details below.  
No. As mentioned in the answers to earlier questions, this plat was created in 1994 and the lots within it were developed thereafter. Thus, the similar residential structures on the other lots were all constructed by permit at conforming setbacks.
13. Would the minimum benefits to the county appear to be far outweighed by the detriment the applicant would suffer if forced to remove the structure? Why or why not?  
No. The record shows that the applicants moved the structure at least once from the location first observed by the department on June 25, 2014 to its current location – so there is evidence that the structure can be moved again to a conforming location. This is a 12' wide x 24' long structure that is not on a permanent foundation so it is conducive to moving again to a conforming location that can be permitted.
14. In light of all of the above factors, would denying a variance serve the interests of justice? Why or why not?  
Yes. The lot is 200' wide x ~1000' deep and 5.1 acres in size. Its topography is similar to that found on the other five lots in the plat. The other lots are similarly sized. On every other lot, a residence has been built at conforming setbacks by permit. This structure is 12' wide x 24' long and not on a permanent foundation. It has been moved once in the last two years since the County became aware of and first documented the violation. There is ample room on the lot where the structure can be placed at a conforming location by permit. Allowing this structure to be located at nonconforming setbacks from the ordinary high water mark and side lot line when all other structures in the plat meet all setbacks would not be fair. Doing so would condone bad behavior of not obtaining a permit and asking forgiveness instead of permission. The interests of justice.

The motion passed unanimously 5 – 0.

**Miscellaneous:** None

**Communications:** None

**Adjournment:**

Christenson made the motion to adjourn.

Johnson seconded the motion.

The motion passed unanimously 5 – 0.

The meeting adjourned at 9:32 p.m.

Respectfully submitted,

Veronica Andres

Recording Secretary