

HUBBARD COUNTY

Planning Commission/Board of Adjustment meeting minutes

6:00 p.m. on Monday, April 24, 2017

Chairman Ken Grob opened the meeting with the following members present: Tom Krueger, Tim Johnson, Ted VanKempen and Cal Johannsen, ex-officio Planning Commission member. Also present was Environmental Services Officer Eric Buitenwerf.

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

Board of Adjustment:

Approval of Minutes: February 27, 2017 meeting.

VanKempen made a motion to approve the minutes as presented. Johnson seconded the motion that carried unanimously 4 - 0.

Old Business: None.

New Business:

Variance Application 2-V-17 by Myron and Carol Moen: Part of Gov. Lot 2, Section 13, Township 141, Range 34, Lake Emma Township on Upper Bottle Lake, a recreational development lake. Parcel 16.13.01400. Applicants are requesting a variance from Section 702 of the Shoreland Management Ordinance for proposed additions to a nonconforming residential structure located in the shore impact zone.

Myron Moen, 21104 High Pine Lane, Park Rapids, MN, and Joe Mastley, contractor, presented the variance application. We have owned the property for three years and have been using it as our vacation home. We originally bought a vacation home in this neighborhood in 2004 and sold it when we bought this property. We recently sold our home in Annandale, MN and are now making Park Rapids our primary home. We like our home on the lake and the community, but we need more space for our visiting children and grandchildren. Without a basement, we lack storage space that we are accustomed to. Our cabin was built in 1948 and has outdated wiring. We will use this opportunity to upgrade the electrical. The building is constructed pre-ordinance and the northwest corner of the home is 45' from the ordinary high water mark. We need a variance to proceed with the project. In 2014, we updated our septic system and sized it accordingly with a possibility of an addition in the future. Our current septic system is adequate for the proposed addition. When designing the addition, we decided to have it stack above the existing kitchen and living room as it would impact the lot the least by not adding more impervious surface other than the covered patio over the east entrance. The entire proposed addition was designed to be at the 50' ordinary high water mark setback. We felt that this was important to be compliant with as much of the Shoreland Management Ordinance as possible given the existing features of our home. Thank you for considering the variance.

VanKempen asked what the size of the lot was.

Moen replied it is six acres total with 172' of shoreline.

Mastley commented most of the lot is across the street. The main part is 172' of shoreline and 320' deep to the road where you enter.

Krueger noted the property was purchased three years ago. Is that correct?

Moen replied yes. We used it as a vacation home while we lived in Annandale, MN.

Krueger noted in your opening statement you stated the building was pre-ordinance. Are you aware of the 2004 variance addition?

Moen replied yes by Bill and Lynn Behr. That part is not in the shore impact zone and does not predate the ordinance.

Grob asked how many bedrooms are in the existing house.

Moen replied three. We are going to change one of the existing bedrooms into an office space and storage area, and we are adding one bedroom to make it a four bedroom house.

Mastley commented one bedroom will not have any windows; therefore, it will become an office and storage room.

Grob asked how many bedrooms are in the guest cabin.

Moen responded there are two bedrooms.

Grob asked if the guest cabin has water or septic installed.

Moen responded yes, it has water and sewer, but it is a seasonal cabin as it is not insulated.

Grob asked if the cabin is connected to the same septic system.

Moen responded yes, it is designed for six bedrooms.

Grob noted the addition approved by variance in 1984 is what put the structure into the shore impact zone.

Moen commented he was not aware of the addition causing the nonconformity.

Johnson commented on the photo that was displayed on the Board room TV monitors, the master bedroom and walk-in closet is facing the lake. Is that correct?

Moen replied correct.

Johnson asked Buitenwerf if they cut five feet off of the master bedroom and walk-in closet to meet the 50' setback, could they obtain a land use permit.

Buitenwerf responded if the entire structure is beyond the shore impact zone, the proposed addition could be done by permit.

Johnson remarked modifying the house was not necessarily my point as much as it being only five feet. Does the five feet of structure that we are talking about predate the ordinance?

Grob responded no. It was done by variance in 1984. You already have five bedrooms, a garage and a storage shed. It seems as though it is a very reasonable and adequate amount of space to house children and grandchildren.

Moen remarked we do not use the cabin in the winter.

Grob replied you still have five bedrooms.

Johnson asked if the guest cabin is seasonal.

Moen replied it is seasonal.

Mastley commented he was not sure if Hubbard County looked at the number of bedrooms a guest cottage had or the square footage.

Grob remarked the current guest cabin is double its size by today's ordinance. The square footage for a guest cottage today is limited to 700 square feet. The current guest cabin is double that in size along with a home that the applicant is wanting to expand even larger. In character it is quite large compared to the homes in that area of the lake. It seems to a lot of living space and activity for them wanting to add another bedroom.

Moen explained the upstairs room that we are using as a bedroom was actually a living room. It does not have a closet. We are using two bedrooms upstairs and one bedroom downstairs.

Grob asked for public comment.

No written correspondence was submitted.

No public comment was given.

Grob closed public comment.

Johnson commented if the applicant is beyond the 50' shore impact zone, on a six acre lot, and not increasing the size of the footprint. I am in favor of approving the application.

Grob asked where the run-off from the current structure and guest cabin goes during a rain shower. Does it run into the lake? During the lot viewal, I noticed an ice ridge, but there is also a valley and it appears the water flows down the valley into the sandy area.

Moen explained the water will flatten out and stay in that area until it dissipates into the ground. I do not see it run into the lake with the ice ridge being so high.

VanKempen commented with the guest cabin 25' from the water with twice the square footage of the current guest cottage ordinance on a six acre lot, I personally do not see a practical difficulty. I understand Johnson's point of view that we are not increasing the impervious surfaces and such. I observed the shoreline trying to find some mitigating factors where we could have a "no mow zone" or something like that to help the lake out.

Krueger noted the 1400 square foot guest cabin at a 25' setback makes me lean towards denying the application.

Johnson commented I do not see a violation with the cabin when it predates the ordinance.

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

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 () No (X)

Why or why not? The house sits at a 45' OHW setback and has already been added onto twice by variance – once encroaching 10' waterward. The proposed addition would increase the roof height 5' 8" for a new height of 28' 8". This height, combined with the structure's width, would make an imposing façade and size of structure in the shore impact zone and in a neighborhood largely comprised of much smaller single story seasonal use cabins. The structure would not fit in. There also is a 1400 sq. ft. guest cottage on the lot at a 25' OHW setback so the property already has an excess of residential structure space that does not meet the OHW setback. The lot is a bit over 6 acres in size with no obstructions to being able to place a replacement residential structure at a conforming setback that would thus be less impactful aesthetically to the lake and surrounding neighborhood.

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

Yes () No (X)

Why or why not? The existing house is ~1700 sq. ft. in footprint and two stories tall. There is a guest cottage on the lot that is ~1400 sq. ft. in footprint. There are a detached garage and another accessory storage building 28' x 42' in size located on the property. The property is a bit over 6 acres in size. These structures provide plenty of reasonable use of the property and habitable dwelling space. The property can also be used to access Upper and Lower Bottle Lakes for recreational purposes and enjoy the outdoors. All of these listed items provide reasonable uses of the property.

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

Yes () No (X)

Why or why not? The lot is a little over 6 acres in size, ~160' wide for the first ~265' in depth from the OHW, and then widens out to ~450' for the next ~950' in lot depth. There are no wetlands or bluffs on the property. Thus, there is ample room where a residence could be placed that would allow all setbacks to be met. The difficulty is due to the residence being built prior to the ordinance being enacted and located at a 45' OHW setback. The scale of the proposed project relative to the size of the existing residence and it not being feasible to move the structure further back from the OHW present the practical difficulty.

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 structure was constructed prior to the ordinance at a nonconforming 45' OHW setback. While the property is quite large at a little over 6 acres and there is ample depth to be able to place a new residence at a conforming OHW setback, the scope of the proposed addition relative to the size of the existing structure does not make it feasible or fair to require the structure to be moved back so that the addition can occur.

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

Yes () No (X)

Why or why not? Most of the properties in the locality have a seasonal residential recreational use with a few lots having homestead residential use. The three residences to the west of the subject property are 1120, 560, and 880 sq. ft. in footprint and single story. The three residences to the east of the subject property are 1344, 2128, and 1120 sq. ft. in footprint with the first and last being one story and the middle being a two story. The subject property's two residential structures are already on the high end of the range for structure size found in the neighborhood at 1700 and 1400 sq. ft. The primary residence is already a large two-story. The proposed addition will increase the roof height 5' 8" from 23' to 28' 8". The resulting house would be very large and imposing and not fit in with the surrounding smaller, one story seasonal use cabins.

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 3 -1 with Johnson voting nay.

Variance Application 3-V-17 by Dennis Kittelson: Lot 5, Block 1, Plat of Lakeview Heights, Section 9, Township 141, Range 34, Lake Emma Township on Pickerel Lake, a recreational development lake. Parcel 16.55.00500. Applicant is requesting a variance from Section 506 of the Shoreland Management Ordinance for a proposed guest cottage that will exceed both the 15' maximum allowed structure height and 700 sq. ft. maximum allowed structure footprint.

Brittney Spa, 16765 State 87, Park Rapids, MN, presented the variance application. We would like to construct a pole barn for storage and have living quarters in the back half for a year-round residence.

VanKempen noted the shop will be 240' away from the lake.

Spa replied correct.

Grob asked if the cabin down by the lake is seasonal. Is there any reason why it couldn't be expanded for more room and winterized?

Spa responded mainly due to the steepness of the hill. Trying to plow it in the wintertime would be difficult. It would be easier for them to get in and out during the winter.

Grob clarified the difficulty is the winter conditions. Do the applicants live there all year-round?

Spa replied they would like to.

Krueger asked what the square footage of the cabin is.

Grob responded 640 square feet.

Krueger asked for clarification on number two of the staff report findings of fact.

Buitenwerf explained the structure entails a 32'x60' footprint. Therefore, it is in excess of the 700 square feet.

Krueger asked if the guest cottage and shop had a separation, would it be suitable.

Buitenwerf responded yes, if they were two distinct structures with the guest cottage complying with the 700 square foot maximum allowed.

Grob asked if they were separated, would the location be satisfactory and could it be done by permit.

Buitenwerf replied yes. The issue is the size of the structure.

Krueger commented a future owner may possibly turn the entire garage into a guest cabin and be way over the 700 square feet.

Spa replied the cabin goes to the kids when our parents pass. We are not going to change it. Whatever he builds will stay the same.

Grob noted Krueger had a good point. The cabin could be expanded beyond the 700 square feet with future owners.

VanKempen agreed that the applicant would not expand over the 640 square feet. The height of the structure is only a couple feet higher. It is 17' instead of 15'. I believe I could live with an additional two feet. I think it is a good idea to have a guest cabin inside of a building. This part of the ordinance does not allow it, so it is difficult to answer some of the questions we have to answer in order to approve the variance.

Grob asked if they will have water and septic in the shop area. Does he plan to have bathroom facilities in there or just water?

Spa replied, as far as I know, they plan on having those facilities in there.

Krueger asked if the guest cabin and the house will be hooked up to the same septic system.

Spa replied yes.

Krueger asked how many bedrooms is the septic system sized for.

Spa replied she does not know.

Buitenwerf responded the septic designer happens to be in the audience. If you have any questions, you may want to address him.

Grob asked for public comment.

Oral public comment: David Hacker, 57125 County 40, Menahga, MN. I have been working on this for about a year now. The septic system is currently sized for three bedroom. We are going to add additional drainfield for the bedroom addition. It will be sized for 4 bedrooms, even though

the guest cabin is only going to have one bedroom in it. The summer cabin has two bedrooms. As for the question pertaining to water in the building, it is only going to be in the 640 square feet living quarters. The rest of the garage area does not have a water plan.

No written correspondence was submitted.

Grob closed public comment.

Krueger noted if the septic is sized for four bedrooms and if the future owner added a couple more bedrooms, we would have a failing septic system.

Grob mentioned we could place a condition on the variance stating no water or sewer in the shop area.

Johnson commented they may want to have floor drains or hot and cold water. I think the conditions would be too restrictive.

VanKempen asked the size of the lot. It seems like a large lot.

Grob replied 2.5 acres.

Krueger commented it is not against the spirit of the ordinance. It is merely a technicality.

Grob noted if they separate the two buildings by one foot, and place them in the same location, it would be allowed by permit. Even though the ordinance does not want them combined for all of the reasons discussed, in this case, I do not think that is a logical outcome. I am in favor of finding a way to approve the application.

Grob made a motion to approve the variance application.

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 (X) No ()

Why or why not? The applicants desire to reduce the visual impact of two separate permissible accessory structures on their lot by combining the two uses intended to occur in these structures (i.e. a wood shop and a guest cottage) into one structure to reduce the accompanying visual impact and save money on the construction costs. The structure is 240 feet from the lake and the two foot height increase will have no visual or safety problems.

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

Yes (X) No ()

Why or why not? In the winter, it is unsafe going up and down the hill in wet and freezing conditions. Having and using the property for year-round residential use is a reasonable use.

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

Yes (X) No ()

Why or why not? Due to the steep slope and being able to use a year-round residence.

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 topography.

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

Yes (X) No ()

Why or why not? The pole building in which the guest cottage will be housed could be placed on the property by permit for use as an accessory structure. There are similar accessory structures on other lots in the locality. As the applicants' intended use of the guest cottage is to have it serve as a winter residence, there will not be an increase in the number of people dwelling on the lot which will also cause that aspect of the locality's character to not change.

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 carried unanimously 4 – 0.

Variance Application 4-V-17 by Roger and Nancy Johnson: Lot 1, Block 1, Beauty Lake Estates, Section 15, Township 143, Range 35, Lake Alice Township on Beauty Lake, a natural environment lake. Parcel 15.38.00100. Part 1: Applicants are requesting a variance from Section 903 of the Shoreland Management Ordinance (SMO) for a proposed driveway to be located at less than the required 150' ordinary high water mark setback. Part 2: Applicants are requesting a variance from Section 502.1 of the SMO and Article V, Section 1.0 of the SSTS Ordinance to place a drainfield at less than the required 10' side lot line setback.

Scott Holm, 18310 U.S. Highway 169, Grand Rapids, MN and David Hacker, with Backhoe Pete, 57125 County 40, Menahga, MN presented the variance application for a driveway to be located at less than the required 150' ordinary high water mark setback and drainfield. We are trying to save from having to move dirt and have issues with erosion problems just by cutting down the trees. The reason we are coming so far down is due to the shape of the property. The wider part of the property has a lot of slope. We are building on the southern end of the property. In order to have access to our building site, we need to have this long driveway.

Grob asked why the applicant picked this particular location for the residential structure.

Holm responded the north end of the property has a steep slope.

Hacker explained part of the reason for the driveway to be inside the 150' setback is due to the location of the septic system. The driveway cannot come in on top of the hill. This is the only place we can install the septic system.

Grob asked for clarification on the location of the drive way.

Holm replied the plan is to follow the flat spot instead of tearing up trees and installing retaining walls in order to get a driveway there.

Hacker commented along with removing hundreds of yards of dirt.

Grob asked if there will there be a culvert and fill near the end of the area where you make a quick left turn.

Hacker responded that has been discussed with the excavator. There should be something there because of the slough on top. With heavy rains, it does drain through there.

VanKempen commented it makes more sense moving 20' closer to the water than moving hundreds of yards of soil that could cause erosion problems.

Grob asked for clarification on the septic request.

Hacker replied due to topography, the system will need to be a pressurized bed. Due to the soil content, it will need to be a lot larger. There is only one area that I will be able to squeeze that into and I will need to come up to the property line in order to install it properly. Otherwise, part of the drainfield will be sticking out of the hillside.

Grob asked Buitenwerf for clarification on the septic ordinance, as far as the drainfield is concerned. Do they need to have an alternate drainfield location before a building permit is approved?

Buitenwerf replied yes. When this lot was created, it was part of a plat that was approved in 2000. The State of Minnesota, at that time, as it does now, required that there be evidence of two suitable sites for drainfields, for type one systems, on each lot. We have looked through the records for that plat application, and for whatever reason, there is not a site evaluation on this lot to document if it was verified at that time. The staff that was involved at that time are no longer employed in our department. We do not have anyone historically that we can ask.

Grob asked if it will be problematic when it comes time to obtain building permits.

Buitenwerf replied it appears they have located some proximate building sites that will be able to meet all of the setback requirements.

Hacker responded there is an alternate drainfield site on the application. Due to the topography, in order to get a full bedroom drainfield on that site, part of the drainfield would be coming out of the hillside. That is not my preferred site as it would be more of an experimental system.

Grob asked Buitenwerf if the 0% setback would be an issue with the Department of Natural Resource Management on the neighboring County Tax Forfeited land. Do we need any documentation? Is it going to be an imposition, in the future, for that property, by allowing the variance to be right up to the property line?

Buitenwerf replied the Natural Resource Management Department was notified of the application and we did not receive any notification from them.

Grob asked for public comment.

No written correspondence was submitted.

No public comment was given.

Grob closed public comment.

Johnson commented I feel this is the best location for the driveway. As far as setback, it is underground and on their land.

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? Part 1: The lot is long (north-south) and narrow (east-west) and contains undulating topography with a side slope that consistently runs toward the lake. The proposed driveway takes advantage of an existing trail to minimize the amount of vegetation that would need to be removed as well as the amount of grading/filling needed to construct a driveway. Requiring the driveway to meet the 150' OHW setback for its entire length would result in a lot of trees being removed and a lot of ground being disturbed to create a flat drivable grade. The 20-30' of setback that would be gained by requiring the driveway to fully meet the 150' OHW setback is not worth the impact that would result from the vegetative removal and grading/filling required with a driveway meeting the setback.

Part 2: As mentioned in the answer for Part 1, the lot does not have much depth and the topography does not afford many locations for a drainfield because of soil limitations. Thus, the system needs to hug the east lot line. This line was located when the lot was platted in 2000 and the adjacent property to the east is County tax-forfeited land that has recently been logged so the line location was likely identified during the timber sale as well. The 10' setback is in place to provide a buffer that hopefully ensures the drainfield is placed on the correct property. As long as the lot line's location is known, a drainfield ought to be able to be placed within the 10' setback and still meet the ordinance's intent of not having it be partly or wholly placed on the wrong property.

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

Yes (X) No ()

Why or why not? Part 1: Having a driveway to one's residence on a lot is a reasonable request and use of the property. Part 2: The lot is very limited in terms of available, suitable drainfield sites. Being able to have a standard septic system to service the sewage generated by the residences proposed for the property is a reasonable request and use of the property as well.

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

Yes (X) No ()

Why or why not? The property is very wide (>1/4 mile), but not very deep (110'-250') and has undulating topography in the north-south direction with a consistent side slope that drains toward the lake. A driveway cannot be installed that works best with the terrain that also meets the 150' OHW setback at all points. Similarly, the SSTS design submitted in the application shows that if the proposed drainfield site that requires a rear lot line setback variance is not allowed, then the alternate drainfield site will need to be an experimental system.

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

Yes (X) No ()

Why or why not? The lot was created by a plat that was approved and recorded in 2000. The applicants did not create the plat. They purchased the lot in November 2016.

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 riparian seasonal and year-round residential lots that are not yet fully developed and no back lots. This development is surrounded by County tax-forfeited forest land. The area is very remote. All of the riparian lots have driveways and the dense vegetation on the lot will screen the driveway from view by others living on the opposite side of the lake. A drainfield is a standard accessory feature on all of the riparian lots in the development that are improved. It being closer than 10' to the property line shared with the County land will not affect the locality's character in any way.

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

Yes (X) No ()

Why or why not? Economics were not cited in the application as the sole difficulty. The difficulty is due to the lot's dimensions (particularly its lack of depth) and the unique topography of a consistent side slope and undulating elevation in the north-south direction.

The motion carried unanimously 4 – 0.

Variance Application 5-V-17 by Jayne Gunderson: Lot 8 except the East 10 feet of even width and Lots 9 – 11, Block 2, Highland Park, Section 9, Township 140, Range 33, Nevis Township on Deer Lake, a recreational development lake. Parcels 21.40.01000 and 21.40.01100. Applicant is requesting a variance from Section 502.2 of the Shoreland Management Ordinance for a proposed new residential structure to be located at less than the required 100' ordinary high water mark setback.

John Baker, 4291 W. 150th Street, Savage, MN presented the variance application. I am the owner of the neighboring property. The applicant is requesting a variance for a new residential structure to be located at less than the required 100' ordinary high water mark setback. The lot is short and with the road setback, a residence would need to be long and skinny. The applicants are asking to move closer to the lake because of the setback requirements.

VanKempen asked why the applicant picked this specific location on this lot to build the residence.

Baker responded I believe it was to be located near the center.

Grob asked why they tried to locate it where they did as opposed to back farther. It seems like the long dimensions are unattractive by pushing the structure closer to the lake. They have opportunity to pick a location and build a new structure at the 100' ordinary high water mark setback.

Baker replied they wanted to keep the septic location as far away from the lake as possible. Other than that, I do not have any information.

Krueger commented there are other options available to build at the 100' ordinary high water mark setback.

Baker asked what the setback is from the road right-of way.

Grob responded 20' from the easement.

Buitenwerf clarified the rear lot line coincides with the edge of the road right-of-way. In this case, the setback is 20' in from the lot line.

Grob indicated they could move the structure back or to the right and still have separation from the drainfield.

Johnson asked Buitenwerf if the 10' deck is to be located at the edge of the 100' ordinary high water mark setback.

Buitenwerf replied in order for a permit to be issued, yes.

Grob asked for public comment.

No written correspondence was submitted.

No public comment was given.

Grob closed public comment.

Grob commented that it would appear that the design of the house and garage could be altered and relocated to optimize a much better setback closer to the 100' required ordinary high water mark setback. I think in general we would not like to have a nonconforming structure built on an undeveloped lot when there is opportunity to build elsewhere.

VanKempen noted there is approximately 30 additional feet on the east side of the lot compared to the westerly side. I feel if you were to flip the garage and the cabin around to situate the cabin closer to the easterly lot line, you may be able to meet the 100' setback or be very close to it. Situating the house parallel with the lakeshore may be feasible. I could see where desiring a walk-out basement, the location would be best. As far as meeting the setbacks in the ordinance, the applicant does have other alternative building sites.

Baker responded the applicant did want a walk-out basement.

Grob commented we could vote on the application as presented or we could table it and have the owner come back with a suggested plan.

Johnson remarked if the property owner desires a walk-out basement and that is the only site for a walk-out basement, this property is not made for it. I think a dwelling unit could be put in by permit to meet setback over on the east side of the lot.

Krueger commented a residence could be constructed by permit at the 100' setback or close to it by variance.

Baker stated there may have been a miscommunication on the setback of the road right-of-way and the setback of the rear lot line.

Buitenwerf clarified, in this situation, the rear lot line is one and the same with the edge of the road right-of-way.

VanKempen asked without the land owner present, are we able to table this application.

Buitenwerf said whether or not the land owner is present, it does not affect your ability to table or not table the application.

Grob commented a solution can be achieved by permit.

Krueger remarked I would be in favor of tabling the application in order for the property owner or contractor to present the application or more in favor to deny the application.

Baker asked if the application should be tabled if they have questions or should they submit another application.

Krueger replied a residential structure can be built by permit in a different location. It will be up to the landowner if they want to re-apply for a variance at a less restrictive location or if they decide to build a residence at a permissible location.

Krueger made a motion to deny 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 () No (X)

Why or why not? The proposed house plan is too deep for the lot at 58' on a lot that is roughly 175' deep. The lot is ~190' wide. A different house plan like a ranch style that is wider than it is deep and would run parallel to the shoreline is better suited to the lot's dimensions and topography and would allow for a structure to be placed on the lot at a greater OHW setback than the 56' proposed. Thus, the variance application is not in harmony with the intent of the ordinance because a greater OHW setback is possible with a revised house plan that can be placed on the lot and still provide the features (lakeside deck/platform, attached garage, walkout basement) that the applicant desires.

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

Yes () No (X)

Why or why not? The lot can be used to enjoy the outdoors and access the lake for recreational purposes. A travel trailer or tent can be placed on the lot as well in locations

that meet all setbacks. These listed items all provide reasonable uses of the property. A different house plan that is less deep and wider (such as a ranch style) would better fit the lot and allow for the structure to be placed at a greater OHW setback than the requested 56'.

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

Yes () No (X)

Why or why not? The lot is ~175' deep x ~190' wide. While there is not a lot of depth with which to work, subtracting the 100' OHW setback and 20' road setback leaves 55' of depth in which a structure could be placed by permit. This depth seems very reasonable for being able to fit a residential structure design into it.

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 house plan desired by the applicant. The plan calls for a house and lakeside deck that together are 62' deep. The lot is ~190' wide and thus with its slope is conducive to a ranch style house design that would still afford a lakeside deck, walkout basement, and attached garage, but better fit on the lot and allow for the structure to be placed at a greater OHW setback than the 56' distance proposed with the submitted house plan.

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

Yes () No (X)

Why or why not? The locality is comprised of smaller lots that are all part of the same plat that was created prior to the ordinance being enacted. Roughly half of the lots have seasonal residences on them. A quarter of the lots are unimproved and another quarter of the lots are year-round residential uses. Ordinary high water mark (OHW) setbacks for the residences on the lots range from 40-60' on structures built prior to the ordinance to some structures a few lots east of this lot that meet the OHW setback. The proposed house on this lot is large in square footage (~4,500 sq. ft.) and height (31') for the area. A house three lots to the east is similar in size, but most residences in the area are roughly half the square footage and height of the proposed structure. The proposed structure would stand out in a deleterious way.

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 4 – 0.

Variance Application 6-V-17 by Ron Schirmers and Rachel Creager: Part of Gov. Lot 6, Section 1, Township 140, Range 35, Todd Township on Fish Hook Lake, a recreational development lake. Parcel 27.01.02000. Part 1: Applicants are requesting a variance from Sections 502.2 and 703 of the Shoreland Management Ordinance for a proposed lakeside deck that will exceed the allowed 15% of structure ordinary high water mark setback and not meet the 10' side lot line setback. Part 2: Applicants are requesting a variance from Section 702 of the

Shoreland Management Ordinance for a proposed addition to a nonconforming residence located in the shore impact zone.

Ron Schirmers and Rachel Creager, 13505 Black Bear Drive, Park Rapids, MN, presented the variance application for a proposed lakeside deck and addition to a nonconforming residence located in the shore impact zone. We purchased this property as a foreclosure in very poor condition. The existing deck that is on the house is unsafe. The insurance agent will not insure the house until it has a safe deck. The current deck is 8' deep which is a bit short for a table to barbeque outside. The deck has a 4' landing that extends out 11' from the house that is currently 39' from the lake shore. We are hoping to modify the deck size. It will be less on the sides, but greater in the dining area. The overall square footage doesn't change much. We would also like to add stairs down from the deck off to the side. The second proposal would be a covered entry porch to the back.

VanKempen clarified that the square footage of the deck that you plan to replace is not much different than the existing. It appears that the changes will make the deck closer to the lake.

Creager responded the edge of the current landing is the closest point to the lake.

VanKempen asked if the unique structure under the deck will be removed.

Creager replied it is gone.

Grob asked if the setback from the side lot line would remain the same.

Creager replied correct and proceeded to read a letter of approval that was sent to her from the owner of the adjoining lot to the west of this lot in regards to the variance application.

Grob asked if the large shed on the back side was removed.

Schirmers replied it was removed when we purchased the property. However, the cement slab is still in place.

Grob asked if we were to propose accepting the variance request with conditions of removing the "quasi basement" and cement slab, would you find it acceptable.

Schirmers replied yes.

Grob noted for the record that there was no one in the audience to ask for public comment.

VanKempen noted we received a copy of the written correspondence on April 13, 2017.

Written correspondence was received from Shirley and Gerald Green, 19927 U.S. Highway 71, Park Rapids, MN, 56470 in favor of the variance application.

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

Conditions:

1. The existing structure "quasi basement" located under the existing deck shown in the photo submitted with the variance application must be removed.

2. The existing concrete slab labeled "garage slab" on the variance application site plan must be removed.

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? The applicants are going to remove a quasi-basement addition on the lakeside of the cabin below the existing deck as well as a large concrete slab that once sat beneath a pole building behind the cabin which will reduce the lot's impervious surface area and more than offset the new impervious surface area on the lot created by the new deck and covered porch. The covered porch is to the rear of the cabin away from the lake and will not be visible from the lake. The new lakeside deck will extend 3' closer to the lake than the existing deck, but it will have a triangular prow so that not all of the deck is 11' deep. Thus, the actual square footage of deck surface will not be much more than the existing deck.

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

Yes (X) No ()

Why or why not? There is an existing lakeside main floor entry door that would be unsafe to leave without some form of deck or steps on the lakeside of the cabin for safe ingress/egress. A lakeside deck is a reasonable request on a cabin located on a riparian lot. The requested depth and deck layout does provide more usable space on the deck to be able to place a table and chairs on it and have sufficient room to move around a table. Having a covered porch for entering the cabin to keep that door out of the elements is also a very reasonable request.

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

Yes (X) No ()

Why or why not? The cabin predates the shoreland ordinance (County Assessor records show it was constructed in the early 1960s) and is located in the shore impact zone at a 39' OHW setback. The ordinance requires a variance to add onto such a structure. The lot is narrow (i.e. 54' wide at the rear lot line and not much wider at the OHW) and the scale of the requested addition is small relative to the cabin's size so it does not make sense to have the cabin moved back further from the OHW in order to allow the addition. The lakeside deck proposal also is unique and due to the cabin's OHW setback being in the shore impact zone and the cabin's having been constructed prior to the ordinance taking effect.

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 cabin being in the shore impact zone at a 39' OHW setback and constructed at this location before the Shoreland Management Ordinance was enacted. The ordinance requires a variance to add onto a structure located in the shore impact zone and the deck difficulty is due to the cabin's OHW setback.

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

Why or why not? There is an existing lakeside deck on the cabin so the replacement deck will not alter that "look" for the neighborhood. The covered porch addition will still have the cabin being within the norm of the size of the smaller cabins to the east of this lot and well under the square footage of the larger residences to the west. The removal of the quasi-basement addition beneath the existing deck and the concrete slab that was once beneath the former pole building at the rear of the lot will greatly improve the property's look and how it fits in with and enhances the locality's seasonal and year-round residential character.

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

Why or why not? Economics were not cited in the application as the sole difficulty. The difficulty is due to the cabin's being located in the shore impact zone and constructed well before the Shoreland Management Ordinance was enacted.

The motion carried unanimously 4 – 0.

Johnson made a motion to close the Board of Adjustment meeting.

Krueger seconded the motion that carried unanimously 4 – 0.

Planning Commission:

Approval of Minutes: February 27, 2017 meeting.

VanKempen made a motion to approve the minutes as presented. Johnson seconded the motion that carried unanimously 4 – 0.

Old Business: None.

New Business:

Sign Ordinance draft review:

Grob began by suggesting we review the proposed changes to the Hubbard County Sign Ordinance draft page by page and pick up on comments and discuss the items where the author indicated changes may be altered.

Grob read through the draft and the Planning Commission made edits to the following pages:

Pg. 4 – comment at the end of the page needs clarification as did it mean non-commercial in the last sentence.

Pg. 12 - Section 31, "zoning districts" may not be the proper term to use. May need to be worded as "functional class".

Pg. 15 – Planning Commission agrees to condense the temporary sign category if Environmental Services Office desires.

Pg. 20 – Insert "County" after "Hubbard" on line 2. Change "double" to "quadruple" on the last line in Section 51.1.

Pg. 24 – Change "if" to "it" at the bottom of Section 54.1.

Pg. 24 – Section 54.1 Practical Difficulty # 3, check with Scott Anderson if we keep the wording as it was part of the language amended when the "hardship" term was changed by the court to "practical difficulty".

Miscellaneous:

Communications:

Buitenwerf noted we have a fairly large May Agenda. We have a preliminary plat application on the east side of Lake Plantagenet, a conditional use permit application south of Lake Belle Taine, and a half dozen variance applications.

Buitenwerf said Commissioner Christenson and I met with Representative Green, Senator Utke, and Representative Grossell about the vacation rental by owner topic to see if the State would have any interest in the issue. It was very clear that none of them were interested in the State doing anything with the topic. They commented if there were neighbor complaints, they ought to be handled by the local law enforcement. Regarding issues with sales tax and equity for a fair playing field for resort owners, Representative Green indicated he had plans to submit legislation in the coming years to de-regulate resorts.

Adjournment:

VanKempen made the motion to adjourn.

Krueger seconded the motion.

The motion passed unanimously 4 – 0.

The meeting adjourned at 8:07 p.m.

Respectfully submitted,

Veronica Andres

Recording Secretary