

HUBBARD COUNTY

Planning Commission/Board of Adjustment meeting minutes

6:00 p.m. on Monday, April 25, 2016

Chairman Ted Van Kempen opened the meeting with the following members also present: Ken Grob, Tom Krueger, Charlene Christenson and Tim Johnson. Also present was Environmental Services Officer Eric Buitenwerf.

Van Kempen 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 March 28, 2016 meeting.

Old Business: None

New Business: None

Miscellaneous: None

Board of Adjustment:

Approval of Minutes: March 28, 2016 meeting.

Tom Krueger made a motion to approve the March 28, 2016 minutes with a correction to the Preus 8-V-16 Variance application as a 3 – 1 vote with Krueger voting nay. Van Kempen seconded the motion.

The motion carried 4 – 0 with Grob abstaining.

Old Business: None

New Business:

Variance Application 9-V-16 by Mark Gulbrandson: Part of Gov. Lot 1, Section 26, Township 141, Range 34, Lake Emma Township on Big Sand Lake, a recreational development lake. Parcel 16.26.00100. Applicant is requesting a variance from Section 4, Subd. A.1.a.3.d of the Subdivision Ordinance to allow more than four lots per quarter/quarter or Gov. Lot.

Kevin Lindow, agent for Mark Gulbrandson, 1301 Park Avenue South, Park Rapids, MN presented the application as a split of the property which is ten plus acres into two parcels for construction purposes and a variance is required from the Subdivision Ordinance because there is more than four parcels in this government lot or quarter/quarter.

Christenson asked that this could be approved with a condition that there be one shared driveway easement to be allowed to be used by the two tracts. Would the landowner be in agreement with the condition?

Lindow replied yes, we have already drafted the documents with the easement in place to accommodate both tracts. That would keep one driveway approach on County Road 7 which makes sense.

Van Kempen opened the discussion for public comment.

No public comment given.

No written correspondence received.

Closed public comment.

Johnson commented that it is worthy of subdividing and this is a good solution.

Grob noted that the lots meet the width requirements and the septic requirements.

Christenson made a motion to approve the variance application with the condition that only the one shared driveway easement is allowed to be used by the two proposed tracts to access County Road 7 and adopt the staff 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 (X) No ()

Why or why not? The applicant volunteered a shared driveway easement for the two proposed tracts that mitigates the safety concern and addresses the ordinance's intent of having no more than four driveways accessing a public road in a ¼ mile stretch.

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

Yes (X) No ()

Why or why not? The property is 10.25 acres in size. The proposed subdivision of it complies with all other ordinance requirements. The shared driveway easement mitigates the safety concern and is in line with the ordinance's intent of no more than four accesses in a ¼ mile stretch of road. The shared easement and subdivision of the property are thus reasonable uses in our minds.

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

Yes (X) No ()

Why or why not? The lot is 10.25 acres in size and able to be subdivided and comply with all ordinance requirements aside from the provision limiting accesses on a ¼ mile stretch of road to no more than four. What is unique is that there are already four tracts fronting this public road – which is beyond the landowner’s control.

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 created by this provision having been added to the ordinance last year and the fact that there were already four tracts fronting the public road in this government lot. How many other tracts front the road in this government lot is beyond this landowner’s control.

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 year-round and seasonal residences. The safety consideration of not exceeding four accesses per ¼ mile stretch of road has been mitigated by the condition placed on the variance that specifies that only the proposed shared driveway easement can be used by these two tracts to access the road. The two proposed tracts meet and exceed all other minimum lot size requirements so there should be no harm done to the locality’s residential character.

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

Yes (X) No ()

Why or why not? Economics were not cited in the application as the sole difficulty. The difficulty involves the fact that four tracts already exist in this ¼ mile stretch of road and the landowner has no control over the number of other tracts in this government lot or the County’s addition of this access control provision to its Subdivision Ordinance.

The motion passed unanimously 5 – 0.

Variance Application 10-V-16 by Steven Oxley: Part of Gov. Lot 7, Section 25, Township 144, Range 32, Hart Lake Township on Steamboat Lake, a recreational development lake. Parcel 10.25.01600. Applicant is requesting a variance from: Part 1. Section 501.2 of the Shoreland Management Ordinance (SMO) for a proposed lot to have less than the required 150’ minimum lot width at the 100’ ordinary high water mark (OHW) setback. Part 2. Section 4, Subd. A.1.a.3.c of the Subdivision Ordinance to create two tracts that will not comply with the requirement that all new shoreland tracts must have at least 75’ of frontage on a public road.

Buitenwerf commented that Mr. Oxley submitted to our office an indefinite timeline extension form due to the fact that we consulted with the DNR. Mr. Hoverson, the Area Hydrologist, shared paperwork with us showing that there was a Public Waters Excavation permit that was issued for the harbor on the property a few years back and a condition of that permit was that

the harbor created became public water. The survey that had been submitted with the variance application did not show the harbor as being part of the lake and the ordinary high water mark setbacks were not factored in from that harbor. That would need to occur and I spoke with Mr. Oxley this afternoon and he indicated a desire to amend his application and submit that this week so that it could be placed on the May agenda factoring in and depicting the 100' setback from the harbor and recalculating the lot area and residential lot suitable area figures. If any of those would require any additional variances, that would allow him the opportunity to amend the application accordingly, let us re-notice accordingly and hear that in May. Staff recommends a motion to accept that form from the applicant and table the application per the applicant's request.

Van Kempen made a motion to table this application indefinitely until the applicant is ready to resubmit.

Grob seconded the motion.

The motion passed unanimously 5 – 0.

Variance Application 11-V-16 by DB of Walker: Part of Gov. Lot 7, Section 33, Township 144, Range 32, Hart Lake Township on Garfield Lake, a recreational development lake. Parcels 10.33.00500 and 10.33.00610. Applicant is requesting a variance from: Part 1. Section 901 of the Shoreland Management Ordinance (SMO) to remove some trees in the shore impact zone (SIZ). Part 2. Sections 902 and 903 of the SMO to exceed the permissible threshold for earthen material movement within the 100' ordinary high water mark (OHW) set back and to construct a new segment of a public road within the 100' OHW setback.

Jed Shaw and Joe Arndt of D.B. of Walker, LLC, P O Box 1258, Walker, MN, presented the application as a variance to remove trees and to fill a certain percentage of wetland that borders an existing public road for the purpose of creating a public road dedicated to Hart Lake Township. That is in part of a project that will allow us to donate the lot to Hubbard County for a park.

Grob commented that in looking at the drawing, how many lots do you intend to create for sale.

Shaw responded that in this particular portion, there would be six new lots created.

Grob asked if they all meet the 150' width.

Shaw replied that they reach or exceed that width.

Christenson asked what type of vegetation will be used on the vacated portion of the road.

Shaw explained that they will be using the plan submitted to the DNR as a restoration plan.

Arndt stated that it will be native vegetation as per the request, but specifics are not known at this time.

Shaw produced the restoration plan document and explained that this had been submitted to the DNR and Darrin Hoverson requested that we change some of the stuff, but the changes are simple stuff and we will do as they request.

Grob asked if this was only for tract one.

Shaw replied that there is one for each.

Christenson commented that at the site visit where the road currently is and what is being proposed seems to keep the lake in a win-win situation. The road is by far too close to the lake and what is being proposed will take some of the traffic away plus with the native vegetation, it would be a great move.

Van Kempen asked if there were other government agencies that you have had to deal with to get to this point in the process.

Shaw replied that they had worked with the Army Corps of Engineers directly, the DNR directly, and Hubbard County Soil and Water to coordinate all the plans that we have in place for the road vacation and dedication of the new road going through. They have been with us step by step in this process; this is the end of a two and one half year plan. We also worked with the Hubbard County Board in some instances for some input into this project.

Krueger asked about the lot being donated to Hubbard County, would you be putting in a swimming area for the public.

Shaw explained that they will be dedicating 254 feet of that frontage to the public and well as three acres. It will be a traditional swimming area for that location and so in working with some of the locals and the township board itself to establish what they deemed would be suitable for a public area.

Grob asked if the restoration project would run up to where the dark solid lines are for that road area and the beach is to the north.

Shaw replied yes.

Grob asked if the current whole road is built on an ice ridge, but in the long term will people who build on those lots want access to the lake. A concern would be will they start wanting to cut paths through that ridge to put a dock rather than step down three to four feet. They would need approval to cut through that ice ridge.

Buitenwerf explained that to do any modification to a permanent ice ridge would require a variance being approved.

Shaw explained that they would only allow what the County allows. They are allowed to do reasonable access and the yellow line here represents one portion that the DNR requested from us indicating where people use their reasonable access. It would be per County ordinance for that situation.

Van Kempen opened the discussion for public comment.

Maria Patton, 14297 60th Avenue NW, Cass Lake, MN 56632, explained that she would like to speak for herself and Michael and Barbara Becker who own land that is next to this property. Our main concern is how this project will affect our taxes.

Buitenwerf explained that property taxes and valuation of this land or any adjoining property would be up to the township assessor, so we have no way of knowing how or if at all this would amend property values. That would be a question to direct to the township assessor.

Patton asked if that could be done tomorrow and would they have the information.

Buitenwerf replied that you can ask at any time and if they have this information, I do not know at what point they would feel comfortable to reply to that question. If they contact us, we would provide them with what we have so far so that they could review it.

No written correspondence received.

Closed public comment.

Christenson asked if when people come to use the public beach they will drive down the new portion of the road you put in and there will be an approach by where you thought the parking lot would go.

Shaw explained that according to the County Parks, they might put in handicap parking down somewhere where we parked at the lot viewal. Everything else would be parking back behind where the wetland area is in the field.

Krueger asked if the County would have to plan for parking.

Shaw replied yes.

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

Van Kempen 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 ordinance intent is being greatly exceeded by having ~1100' of existing township road located in the shore impact zone vacated in exchange for ~50' of new roadway being placed within the 100' OHW structure setback in order to connect the existing road that is in the shore impact zone to the new road the applicant will construct and donate to the township. The new road will route the road ~530' away from the lake for this 1100' distance.

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

Yes (X) No ()

Why or why not? Vacating and restoring 1100' of township road that is located in the shore impact zone in exchange for being able to construct ~50' of new road in order to connect the existing township road in the shore impact zone with the new road that will move the road ~530' away from the lake is a very reasonable use of the property.

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

Yes (X) No ()

Why or why not? The township road has been in the shore impact zone for decades. There is no way to tie a new road into the existing road and thereby get a large part of it outside of the 100' OHW setback without having a small ~50' portion of it be located within the 100' OHW setback so it can tie into the existing road located in the shore impact zone. The area along the road is heavily wooded so there is no way to construct a new road and connect it to the existing road without removing some vegetation.

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

Yes (X) No ()

Why or why not? The difficulty is caused by the existing township road's location in the shore impact zone. The road was constructed in this location decades before the applicant purchased the property. There is no way to relocate a portion of the road away from the lake without having a small portion of the road fall within the 100' OHW setback in order to be able to connect to the existing road portion that is not being vacated.

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 residential use to the south of the property and a large ¼ mile stretch of undeveloped land to the north and west. This rural residential character will not be harmed. It will be improved by moving 1100' of township road out of the shore impact zone.

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 road being located in the shore impact zone and the area surrounding it being heavily forested

The motion passed unanimously 5 – 0.

Miscellaneous: None

Communications: Buitenwerf said we have roughly three to four applications for May and no Planning Commission business for May.

Adjournment:

Johnson made a motion to adjourn the meeting.

Krueger seconded the motion.

The motion passed unanimously 5 – 0.

The meeting adjourned at 6:40 p.m.

Respectfully submitted,

Barbara Barth
Recording Secretary