

HUBBARD COUNTY

Planning Commission/Board of Adjustment meeting minutes

6:00 p.m. on Monday, February 27, 2017

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

Election of Officers: Chair, Vice-Chair, and Secretary

VanKempen called for a nomination for Chairman.

VanKempen made a motion to nominate Ken Grob as Chairman.

Johnson seconded the motion.

The motion passed 3 – 1. Grob voting nay.

VanKempen called for a nomination for Vice Chairman.

Johnson nominated Tom Krueger as Vice Chairman.

VanKempen seconded the motion.

The motion carried unanimously 4 – 0.

VanKempen called for a nomination for Secretary.

VanKempen nominated Tim Johnson as Secretary.

Grob seconded the motion.

The motion carried unanimously 4 – 0.

Planning Commission:

Approval of Minutes: December 19, 2016 meeting.

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

Old Business: None.

New Business:

Conditional Use Application 1-CU-17 by Ben and Janae Hass: Outlots C and D, Highland Park, Section 9, Township 140, Range 33, Nevis Township on Lake Belle Taine, a recreational

development lake. Parcel 21.40.04000. Applicants are requesting a conditional use permit per Section 401, Table 1 of the Shoreland Management Ordinance to operate a resort.

Ben and Janae Hass, 393 West Avenue, Nevis, MN, presented the conditional use application. We are looking to build a house and three cabins this summer to accommodate the bike trail on the south side of the property. We would like to operate it as a resort. We are hoping to do it correctly where we can expand with three more cabins in the future.

VanKempen asked what the current use of the property is.

Hass replied the property is bare. There is an old house on it that we plan on tearing down along with cleaning up the garbage that has been left there from the previous owners. We started cleaning up the property in the fall and then the snow got the best of us. We will resume once the snow melts.

Krueger asked if two bedroom units were the correct size.

Hass replied yes. Two bedroom units would be accommodating for families. Most people will be bringing children to utilize the bike trail from Nevis to Dorset or even to Walker.

Krueger stated the reason for his asking is the staff reports states limiting it to two bedrooms per unit and I wanted to know how you feel about the limitations being one of the conditions.

Hass replied it does not bother him. I haven't seen a need for more than two bedrooms. Two bedrooms seemed sufficient from past experience. I suppose now would be the time to address any changes.

Krueger responded yes. Now would be the time as any future changes would require you to return and modify the conditional use permit.

Hass commented correct. The problem is that nobody has done this in the State of Minnesota. We have nothing to go off of or compare to as the other resorts are on the lake. This resort being on a bike trail has never been done so it is hard to judge.

Krueger responded the only reason I am asking is I used to be a resort owner and our three bedroom units were our best renting units.

Hass replied he is unsure if he is going to sink or swim.

Johnson asked if Hass reviewed the proposed conditions. As staff has informed us that you have volunteered some conditions for the application. The reason I am asking you is because there is a condition restricting the guest stays to not exceed one calendar week in length. Eric, do you know why this condition is listed?

Buitenwerf replied the proposed condition in the staff report would be based on information provided in the application as to the duration of the guest stays that they anticipate happening.

Grob noted that in the application you indicated you want to build a pond. What is the purpose of the pond?

Hass responded the sole purpose of the pond is to give a focal point from the cabins. It's a flat piece of property so it will be more of a sitting area.

Grob asked how deep of a pond were you thinking.

Hass replied two to three feet deep.

Grob asked if it would be a fishing pond.

Hass responded no.

Grob noted you indicated you want to build a circular grain bin. Can you please describe the purpose of the grain bin?

Hass commented we wanted to refurbish and use an old grain bin as an arts and craft area for my wife.

Grob asked if there was a grain bin there already.

Hass replied no. We have one at my grandfather's that we would like to relocate to our property.

Grob noted in the application it states the use of the grain bin would be to store bikes.

Hass replied yes we would use it as storage along with arts and crafts.

Grob apologized for not being at the lot viewal and questioned the area of the property that appeared to need some renovation.

Hass responded most of that corner has already been removed. There is still a fair amount of debris that needs removed.

Grob asked if the grain bin would be placed in that area.

Hass responded the grain bin would be placed on the concrete slab as shown in the photo.

Grob commented in the drawing it shows the grain bin and an additional structure.

Hass replied that there is an existing cattle stanchion that I would like to build a trellis over for a place to store bikes.

Grob noted you show buffer trees on the south border of the property. What are your plans or thoughts on what you are going to plant in that area?

Hass responded that right now he plans to plant evergreens for privacy.

VanKempen noted during the lot viewal it appeared to him that the majority of the debris is gone. Will the existing structure be removed?

Hass replied yes.

Grob commented the application is for six potential cabins. Have you identified where the additional three cabins would be built?

Hass replied yes. They would be built on the opposite side of the pond.

Grob noted that the cabins would be screened by a line of trees that are on Western Avenue. Is that correct?

Hass replied yes.

Grob asked for public comment.

Oral public comment: Erica VanCleave, 385 West Avenue, Nevis, MN 56467. I have had the opportunity to meet Ben and Janae. They are a very nice young couple. I am the neighbor just to the south. We have acquired approximately 10 acres of property in October. We purchased this property because of the beauty of the area and with the hopes of starting a small hobby farm. One thing I wanted to inquire about was if there was a resort in place, will we have issues with their clients causing them trouble with the noise of the animals? I am also curious if this will cause us to have a tax increase if a resort is opened in our area.

Grob asked is your home in Outlot E.

VanCleave responded my house is not on the picture.

Grob responded we cannot answer the questions on the tax valuation. Eric, what type of ordinance exists regarding animals?

Buitenwerf replied the Shoreland Management Ordinance (SMO) has a section that regulates agricultural uses and it outlines what can and cannot be on a property.

Grob asked if we approve the CUP for a resort, will it affect the neighboring property with agriculture.

Buitenwerf replied approving the CUP for this property will not affect what the neighboring property can do in terms of agricultural uses.

Oral public comment: Kim Tarmin, 24791 Falcon Road, Nevis, MN. I was wanting to know your thought on four-wheelers and ATVs pertaining to your resort for weekend getaways. People that visit do not always follow the rules and regulations of the County or have respect for the neighboring properties. I wanted to know what your thoughts are on bringing those clients into your resort.

Grob asked Buitenwerf for clarification on the CUP. It appears to me they are only asking for cabins, and RVs, campers or any other type use is not allowed on the property. Is that correct?

Buitenwerf replied yes. The application does not have any plans of RVs or any types of rental units aside from the three initial cabins and possible three additional cabins.

Grob clarified there are no other short term rental uses allowed other than the cabins.

Buitenwerf replied correct. None are being requested.

Grob commented RVs are not mentioned in this CUP request.

Johnson remarked legally if a customer trailered a four-wheeler and stayed at the cabin they may use the four-wheeler.

Oral public comment: Bob Nurnberger, 24748 Falcon Road, Nevis, MN. My wife and I have a cabin on Deer Lake. The bikes referenced, are they dirt bikes?

Hass replied pedal bikes.

Nurnberger commented they have had their place for 25 years and each year gets a little worse with the dirt bikes and ATVs. In the winter time as soon as there is snow on the ground, they are up and down the road and through the yard. I have 2 cabins on one side and 3 cabins on the other side of me and between the two lots, there's between 12-15 jet skis there. It has become a

rat race. Our residence is in Staples, MN and I have already contacted the Sheriff's Department as I am concerned that someone is going to be killed on that road. These city slickers come up and want to tear up Falcon Road. This is the only thing I have against this request. How many others do you have in favor of this request compared to what you have against it? Or can I ask you that?

Grob commented most of the written comments have been from Deer Lake. They appear to be focused on activity on Deer Lake. I would assume they are from people who live on the lake not from people outside of the lake. The jet skis would be a Deer Lake issue and the road traffic would be a local law enforcement issue.

Nurnberger commented they have checked on the speed limit on the road. Someone wanted it changed to 30 mph, but I believe it is currently 40 mph, but they travel faster than that. I have seen law enforcement in the area.

Grob closed public comment.

Johnson asked Hass if he could show him where a snowmobile would leave his property to get to the snowmobile trail.

Hass responded they would leave our property and follow along County 18 to get to the trail.

Grob asked if it was a couple hundred yards to the trail.

Hass replied it may be 100 yards. I have read the letters and it appears the concern is warranted and justifiable as I have children myself and I do not want anyone speeding past them. As far as customers that use our cabins, they may bring a four-wheeler, snowmobile or ATV. They may use the trail that we have in place. That was its purpose. I am in business to make money. I would assume we would want people to bring their equipment to utilize the trail just as much as the pedal bikes. I would be a fool to say I would not let a four-wheeler or snowmobiler come and rent from me. With that in mind, we are gearing toward the bicyclists. I do want to be open all year-round and I hope to get some snowmobilers in the winter. It's northern Minnesota and it's why people come up here for. I own and manage a marine company and I can tell you that people are excited to get up here because they are excited for what we have to offer. I can't police people on the lakes. I can't do anything about what they do off of my property, but I can police what goes on the day or two that they attend our resort. They will be aware of what rules apply while they are on my property. I would like to provide a service for an existing path that we have put in place. I have hopefully answered some of these questions.

Oral public comment: Wayne Butzer, 24713 Falcon Road, Nevis, MN. It has been mentioned that there is speeding and noise issues. I am concerned with what the storage building is going to be used for. It would seem to be convenient for someone to store four-wheelers or jet skis. I am also concerned where the path is in relation to the snowmobile trail. Every summer we see excessive speeding with four-wheelers on Falcon Road. The route they use is on Falcon Road to West Avenue and then they take the Trail to Fair Hill. They occasionally use this route to drag race.

Grob asked if they are local residents or visitors to the area.

Butzer replied they are property owners that have cabins on Falcon Road. Again, my concern is they will be storing a noise maker and coming up to use it. I am all for free enterprise and having something positive that is family friendly. My property is right next to it and I will be able to see these cabins from my backdoor. I have also been picking up debris from the previous owners.

VanKempen asked Buitenwerf if the applicant chose to subdivide the property into single family homes in the future, what would the density need to be to do that.

Buitenwerf replied it would be approximately four lots.

VanKempen asked Buitenwerf if there would be any restrictions to erect an apartment building.

Buitenwerf responded the SMO would limit it to a quadplex as the maximum residential use structure that would be allowed. They would need to size one of the possible lots accordingly to allow a quadplex.

VanKempen commented he was just looking into alternate possibilities if the application were to be denied.

Krueger asked Buitenwerf what the rental unit density tier of the property is as # 1 of the staff report findings of fact showed 27 maximum units. Is that correct?

Buitenwerf replied yes.

Krueger asked Hass if he read through the proposed conditions the staff was presenting.

Hass replied no.

Grob asked Buitenwerf if/when they build the three additional units, do they need to come back to ESO for approval for their location.

Buitenwerf replied it depends on whether you put a condition on the additional 3 units. Staff would recommend specifying where those units can be placed including a maximum size on them. That way we have documentation for future reference.

Grob noted an additional condition may need to be implemented stating the ESO (Environmental Services Office) must approve the location and size of the additional three units.

Buitenwerf replied I would prefer that you roughly indicate the location based on the information Hass has provided along with specifying a size that would be agreeable with them as well, in lieu of leaving that up to ESO to specify.

Grob clarified we need to specify size and location.

Buitenwerf replied correct.

Hass acknowledged and accepted the staff conditions and requested being able to build a garage in the future.

VanKempen asked Buitenwerf if a garage could be obtained by permit.

Buitenwerf replied correct.

Krueger asked Hass if he understood the conditions that were proposed by ESO.

Hass replied yes. I am building what I can afford.

Krueger commented I just want to you see set up for success. For example, # 4 limiting guest stays to only one week. What if you have a guest that would like to extend their stay? In order to make that next payment, you may need to take that rental.

Hass acknowledged.

Grob asked Buitenwerf if there was anything driven for that condition other than what was in the application.

Buitenwerf replied correct. Just to make it clear, the recommendations in the staff report were developed based on the information supplied in the application. It is simply memorializing that information. If you want to delete it, you are certainly welcome to do so.

Grob indicated scratching # 4 of the conditions would make sense. I would like to see an addition to # 2 that specifies the location and size of the additional three cabins. The other point is to ensure the noise abatement tree-line is planted on the south border. I think we should cover that in the conditions. The additional three cabins must be placed along the circular driveway and they would need to be consistent with the SMO tier density.

Hass responded that he hasn't thought ahead as to what type of layout he would propose. If I had a square footage to not exceed, that would be sufficient.

Grob replied he was going to add to condition # 2 that the size of the cabins are 20'x24'x12'. You can build those without any change. If you wanted to make them larger or different, you would need to come back and ask for modifications to the CUP. I would like to add a 9th condition that the view/noise abatement tree-line must be planted on the south border. Do you acknowledge the rest of the conditions?

Hass replied yes.

Krueger noted at this point the first three cabins are limited to two bedrooms. Are the next three cabins going to be limited to two bedrooms?

Grob replied yes.

Krueger asked Hass if that is reasonable to him.

Hass replied I was hoping to get more, but a square footage not to exceed would be sufficient. If we find that a three bedroom cabin is more sought after, then we would try to find a floor plan to accommodate a three bedroom outline.

Krueger asked what square footage would be needed for a three bedroom cabin.

Grob remarked he is not in favor of leaving the option wide open, but rather mirror the three proposed cabins and if he finds he wants to expand, he can return to amend the CUP.

Krueger disagreed and explained he can have 22 rental units on this property and he is only requesting to build six. I think now would be the time to adjust the request.

Grob responded the public has expressed their concerns with the overload of additional traffic and noise. Therefore, once you get experience with the first three cabins, you will have a better feel whether you want to open it up to a larger number of guests.

Johnson agreed three bedroom cabins would be accommodating.

VanKempen also agreed to the possibility of making the additional three cabins three bedroom.

Johnson remarked even though he is allowed to build a three bedroom cabin, he can still build a two bedroom if he desired. What is the legal minimum size of a bedroom according to State Standards? 10'x10'?

Krueger replied he is unsure.

Grob explained the need to impose a condition to specify the size of the next three cabins or it goes back to the approval of ESO. What would you like to do with the wording to condition # 2 and the additional three cabins? We have established location. What would you like to add to it? We are trying to help him with his business, which is not our job. Our job is to ensure that what he is asking for meets the requirements of the Shoreland Management Ordinance, not to do his business plan.

Krueger replied having him return to amend it will involve time too so we should resolve it now.

Hass commented a condition not exceeding 1000 square feet would be sufficient.

Krueger proposed condition # 2 would be the first three cabins as written here and the next three can be built up to 1000 square feet and have three bedrooms.

Buitenwerf noted we need additional details to condition # 9. It is very difficult on the applicants end to know what exactly he needs to plant and on the ESO end to verify that they have accomplished what you requested.

Grob asked Hass what the intent was in regards to the tree-line. Will the tree-line be extended to the length of the property line?

Hass replied currently there is a green power box located near the home. I would like to start there and extend it west approximately 50 yards.

Grob asked for clarification on the power box and the placement of the tree-line. What is the distance proposed?

Hass replied it would be approximately 250 feet.

Grob commented condition # 9 would state a noise abatement tree-line would need to be placed along the south property line 250 feet. Is that sufficient?

Buitenwerf asked how many trees and what type of tree. How many rows?

Grob asked Buitenwerf what he would suggest.

Buitenwerf replied from what Hass has indicated, if he is suggesting a tree similar to what is at the Badoura Nursery, those are white cedar along the highway. You could suggest that you would like to see those planted. You could see what size seedling stock could be planted or how many.

Grob replied a white cedar would be a good choice.

Janae Hass asked if we could leave the type of tree to be planted open at this time until we can research what would be best for the area. We would like to plant something that we would not be able to see through.

VanKempen noted you are seeking privacy for your neighbors and yourself. Is that correct?

Janae Hass replied yes.

VanKempen responded leaving the tree type open in some respect would be necessary. Cedars will have a difficult time surviving as that would be something the deer would seek out in the winter time. You may need to go with a spruce as the foliage would stay on at the bottom of the tree as the tree grows tall. I would also recommend three to four rows with proper spacing.

Grob asked how we make sure it is accomplished.

Buitenwerf commented I am only suggesting if you place a condition you will need to supply enough detail to accomplish what you are seeking. Otherwise there is no point to having that condition.

Grob remarked since we will not be able to specify what type of tree were are requiring tonight we would be better off dropping that condition and trust they will reach an agreement on what they should plant and remove condition # 9.

Written correspondence was received from Wayne Butzer, 24713 Falcon Road, Nevis, MN 56467 opposed to the conditional use request.

Written correspondence was received from Marlis Husby, 24644 Falcon Rd, Nevis, MN 56467 opposed to the conditional use request.

Written correspondence was received from Max and Phyllis Friday, 106 West Avenue, Nevis, MN 56467 expressing concerns to the conditional use request.

Written correspondence was received from Christopher Klabo, 24814 Falcon Road, Nevis, MN 56467 opposed to the conditional use request.

Written correspondence was received from Bob and Ruth Nurnberger, 24748 Falcon Road, Nevis, MN 56467 opposed to the conditional use request.

Written correspondence was received from Gordon Klabo, 24814 Falcon Road, Nevis, MN 56467 opposed to the conditional use request.

Written correspondence was received from Shirley Schindlecker, 24486 Falcon Road, Nevis, MN 56467 opposed to the conditional use request.

Written correspondence was received from Earl and Gwendoline Klosner, 106 Arrowhead Drive, Nevis, MN 56467 opposed to the conditional use request.

Written correspondence was received from LaPalma Anderson, PO Box 297, Nevis, MN 56467 opposed to the conditional use request.

Written correspondence was received from Kim Tarmann, 2479 Falcon Road, Nevis, MN 56467 opposed to the conditional use request.

Krueger made a motion to recommend to the County Board of Commissioners that the conditional use application be approved with the following conditions and adopt the staff report findings of fact.

Conditions:

1. This conditional use permit (CUP) is for the operation of the entire premises as one resort 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. The resort use can consist of up to six rental units made up of the three 20' x 24' footprint x 12' high units shown in the application that are proposed to be built by July 1, 2017 and three additional units that shall be located east of the proposed pond and loop driveway that will provide access to the rental units and no larger than three bedrooms and 1000 sq. ft. in habitable area each. Any desired additional rental units beyond these six approved units or size or location modifications to the above-listed rental units will require that a conditional use permit amendment application be submitted to ask to modify this condition and then approved.
3. The SSTS that will service the proposed new rental units must be permitted, installed, and receive a passing compliance inspection before the operating permit for this resort use will be issued.
4. The existing residential structure on the property that the application states will be torn down must be removed from the property before the operating permit will be issued.
5. Access to the property for resort guests shall only be via the proposed driveway that is to be constructed to provide access to the rental cabins off of Western Avenue and shall be placed on the property as shown in the application site plan sketch that depicts the two proposed driveways (i.e. Exhibit A).
6. Resort guest vehicles and trailers shall only be parked at the site of the existing house on the property that is located midway along the south property line as stated in the application.
7. One owners' residence shall be constructed on the property in the location shown on the application site plan sketch not to exceed the 36' x 42' x 26' high dimensions listed in the application.

VanKempen 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?

A resort is allowed as a conditional use within the 1000' shoreland areas of both Lake Belle Taine and Deer Lake – both of which are recreational development classified lakes. The resort will be located on a large 9.5 acre property and the proposed rental unit density of six units is 22% of the maximum 27 rental units allowed. The two driveways accessing the resort enter onto Western Avenue which is an existing City of Nevis road and have good sight distances and lines. There is ample room and suitable soil for the necessary septic systems to service the proposed rental units. The owners will live onsite and thus be able to provide good oversight of their guests. The surrounding property uses are a mixture of low-density residential homes, undeveloped lots, a cemetery, and an industrial manufacturing property. A small resort complementarily adds to this mixed use area.

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?

The property sits roughly in between Deer and Shallow Lakes with each lake roughly 330' and 540' away respectively. The property is at the high point of the topography between the two lakes which is to be expected. The property is somewhat bounded by County 18 to the south, Western Avenue to the east, and Falcon Road to the north and these rights-of-way with their ditches serve as good containment barriers to any stormwater that might run off the property so that it does not enter either lake. The soil on the property is sandy with good percolation rates. This fact, coupled with the resort having a low percentage of impervious surface area for its 9.5 acre property size, causes us to find that most of the stormwater generated on the property will be able to be treated on the property and once initial construction of the structures and driveways is complete, there will not be ongoing soil disturbance or likelihood of water pollution, sedimentation, or nutrient loading occurring.

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?

An existing home will be removed. Improvements to the property will include construction of a new owner's residence, three rental cabins, a small pond, and two driveways by the end of 2017. Three additional rental cabins may be constructed at a later date. No significant grading/filling is proposed as part of these construction activities as most will take advantage of existing topography. The soils on the property are very well drained so any stormwater generated on the property will probably be treated on the property and not cross over the property lines. Most of the vegetative cover that will be altered by the construction of the aforementioned items is grass because the property is largely open with a few areas of moderately dense tree cover and the improvements are planned for the open areas.

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. As stated in answers to earlier questions, the property is located at the highest elevation in this area that is between the two lakes and it is at least 300' from the nearest lake. Thus, the likelihood of the lot flooding is very slim.

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?

The property sits on the highest elevation in this area between the two lakes and is relatively level. The soils are very sandy. The property is largely open and covered in grass in the open areas and then moderate coniferous tree cover as well in the northwest and southwest corners and middle portion along the east property line. There will be some erosion potential as the driveways, structures, and pond are constructed, but any erosion from exposed soil due to these activities will be easily contained in the immediate vicinity of the work because the soil is so porous and the site is relatively flat. Once construction is complete and permanent vegetation is reestablished, the five initial structures and two driveways will have a similar or slightly smaller impervious surface area impact than the improvements on the property from its previous small farm use decades prior.

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

YES (X) NO ()

Why or why not?

An existing driveway that enters onto Western Avenue on the east side of the property is proposed to be moved slightly to the north so that it will be entirely located on the subject property and not also partly on the adjoining property to the south. A second driveway is proposed in the northern ½ of the property that will also enter onto Western Avenue and provide access to the three proposed initial rental cabins. Western Avenue is a paved City of Nevis street. The surrounding area along Western Avenue is city residential and one industrial use on the east side of the street and low-density rural residential and cemetery use on the other side of the street. Western Avenue is ~1660' long and "T"s into Falcon Road on the north and County 18 on the south. With three initial rental units and one owners' residence, the maximum traffic count figuring a worst case scenario of two vehicles per habitable structure would be 8 vehicles entering/exiting the property 2-3 times a day. This traffic volume is within reason of what Western Avenue can handle as a cemetery runs alongside ~660' on the north end of Western Ave. and does not generate much, if any, traffic and the industrial property runs the same distance on the opposite side of Western from the cemetery and its main entrance is on the very north end of Western such that its traffic from Western generally goes onto Falcon Road and does not pass the subject property.

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

YES (X) NO ()

Why or why not?

The property lies in the middle of a mixed use area. A seasonal residential use lot and cemetery abut the property's north border. An industrial manufacturing use lies kitty-corner across Western Avenue from the property's northeast corner. Three city residential improved lots and two unimproved city lots are on the opposite side of Western Avenue alongside the property's east boundary. A single year-round residential lot abuts the full length of the property's south line. Two unimproved tracts, one fully wooded, one half wooded, half open, abut the property's west line. High density riparian lake lots make up the area further out from the property to the north and south and the City of Nevis is further out to the east. The proposed small scale resort will blend in well with this mixture of property uses.

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

YES (X) NO ()

Why or why not?

A resort has a reasonable need to be in a shoreland location. People come to Minnesota resorts because they are on lakes and provide opportunities to enjoy the view of the lake and recreate on it. This resort is a little nontraditional in that it is located on a nonriparian lot and caters to clientele who will use the area's motorized and non-motorized recreational trail systems, but because it is a resort that is a use typically seen in shoreland areas, it is not out of place.

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 property is 9.5 acres in size, relatively level, and made up of sandy soils. Septic system designs are on file and have been approved for the SSTS proposed to service the planned new owners' residence and three initial rental cabins. There is ample room and suitable soil for alternate drainfield sites in the future if/when needed.

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 ~330' from Deer Lake and ~540' from Lake Belle Taine. Dense expanses of coniferous and deciduous tree cover lie between it and the two lakes. Thus, the property is not visible from either lake and it does not occupy any area within the 100' ordinary high water mark setback of either lake such that Section 901 of the Ordinance does not apply to this property.

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

YES (X) NO ()

Why or why not?

As mentioned in the answer to question 9, septic system designs have been submitted to the County and approved for the two systems needed to serve the proposed residence and rental cabins. A single well is proposed to service all the habitable structures. There is ample room for alternate drainfield sites and there are no known issues in the area with being able to reach potable water reasonably with a standard cased well

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 proposed resort use does not mention catering to any watercraft-oriented clientele. However, if such guests do frequent the resort, they will be able to access either Deer or Belle Taine through available public accesses legally like any other citizen and on which there are no limits as to how many people can use them. The property is non-riparian and ~330' from the nearest lake.

The motion carried unanimously 4 – 0.

Conditional Use Application 2-CU-17 by Tim Hanna and Bob LeSage: Little Sand Bay Villas CIC #28, Section 35, Township 141, Range 34, Lake Emma Township on Little Sand Lake, a recreational development lake. Parcels 16.45.90100-16.45.91000. Applicants are requesting a conditional use permit from Section 401, Table 1 of the Shoreland Management Ordinance to convert a land use to a residential planned unit development.

Tim Hanna, 212 Eastwood Drive, Redwood Falls, MN, and Bob LeSage, 1251 East Broadway, Redwood Falls, MN, presented the conditional use application. We have been in front of you before as we applied for a conditional use permit for this property back in 2011. Unfortunately through the process of the property changing hands, an operating permit was not obtained within the five years of the date the County Board approved the CUP. Due to that the conditional use was revoked. We came before you in November 2016 with an appeal which was denied. We are

now reapplying for a conditional use permit to place the property back in good standing. All of the properties are currently sold off individually and are being operated as a residential PUD.

Buitenwerf commented we are apparently having some technical difficulties with the microphone and speaker system.

VanKempen noted you were approved for the CUP in 2011, came in November to request an extension to obtain the operating permit that was denied. It appears all but a couple of the conditions were met. One of the conditions I would like to address is the erosion issue with the driveway. I know at the lot viewal you explained what was going to happen. Could you please briefly explain your plans for the record?

Hanna explained when we came in front of you in November 2016, again because the property was changing hands, we were not aware of the deficiencies on the grading that had not been attended to yet. When we came before you, we were under the impression that failing to obtain the operating permit in the time frame specified was the only issue we had. Since then, Buitenwerf has provided us the details of what was wrong with the grading and how it wasn't met as one of the previous conditions. We have gone over that and we have provided a narrative in the application on what we intend to do with the property. The narrative is based on the details Buitenwerf gave us in terms of the deficiencies he noted. Based on the details, a lot of it was taking the crowns out of the driveway and directing the water to the side of the driveway that would drain into the woods creating a depression area for some of the water to settle that flows down the property so that it doesn't settle at the bottom. Changing the tilt on the apron of the garage to direct water down the driveway instead of the hillside. In this narrative, there are four items that identify the deficiencies of the property. We have indicated in it that we intend to correct those items.

Krueger noted in the narrative LSBV is requesting a one year window to address the items and continued to ask Buitenwerf if there was a timeline in the proposed conditions.

Hanna explained that he had talked to Eric about the time frame. Mostly with the time of year, it would be difficult to get any of these items completed.

VanKempen acknowledged the road grading and planting of trees would obviously need to be done in the summer months. I think a year would be more than what is needed. I would take it into consideration and place a deadline on it. I think it should be completed this coming season.

Hanna agreed. We were just requesting additional time to get through the winter and enough time to establish a contractor.

Buitenwerf replied to answer Krueger's previous question. Proposed condition # 10 in the staff report does have a timeline as it specifies the conditions would need to be satisfied prior to the operating permit being issued. They are here before us because they failed to obtain the previous operating permit. I trust they will have incentive to take care of that this time. The SMO now has a sunset clause of two years.

Grob asked if all of the units have been sold. The first sentence of condition # 4 is no longer applicable if the covenants agreement prevents the unit owners from renting the property. The first sentence of condition # 4 should be deleted.

Hanna replied correct. They are not intended as rentals.

Grob commented the second sentence is still valid.

Buitenwerf clarified the first sentence in condition # 4 was in the original CUP conditions and it is there to guard against vacation rentals.

Hanna replied we have no opposition as we aren't going to use it as rentals so it doesn't apply.

LeSage commented the only reason we wanted something in there was if someone owned something they would at least have the option of renting it out versus leaving it vacant. The first condominium development that I looked into in Minneapolis had no rentals allowed. What would happen if you bought into one of those and all of a sudden you lose your job or something happens and you have no way to get out of it. That is why we had that in there in the first place.

Grob asked Buitenwerf how the first sentences guards against vacation rentals. As to me it appears anyone could rent these for up to 30 days anytime they wanted.

Buitenwerf replied no. It says they cannot be rented for a period of less than 30 days.

Grob acknowledged.

Grob asked for public comment.

No written correspondence was submitted.

No public comment was given.

Grob closed public comment.

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

Conditions:

1. This conditional use permit (CUP) is for the operation of the entire premises as one resort 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. Eight residential dwelling units will be allowed as shown on the application site plan sketch.
3. No new accessory structures are allowed except for the "possible future storage building" shown on the CUP application site plan sketch as being on the northwest side of CSAH 7.
4. The dwelling units and accessory structures shall not be rented for periods of less than 30 consecutive days. Only owners of units in the PUD shall utilize the limited common elements shown in the "possible future storage building" shown in the preliminary plat as being located on the northwest side of CSAH 7.
5. The existing structures and decks/platforms may be maintained and reconstructed, if necessary, but shall always occupy the exact airspace and possess the exact dimensions and locations that they do currently.
6. The boat launch shall only be used by residents of the PUD. It shall not be used to provide lake access to non-residents.
7. The dock system must be laid out and installed exactly as shown on the CUP application site plan sketch and in the exact layout and with the exact dimensions shown on the CUP application site plan sketch.

8. Twelve birch trees that are at least 3' tall and twelve red osier dogwood shrubs that are at least 1' tall must be planted in the open grassy area located east of Unit 7 and south of the gravel driveway turnaround area in the shore impact zone before the CUP operating permit will be issued. At least 75 percent survivorship of the trees and shrubs planted must be maintained for at least five years. If survivorship falls below this percentage, the appropriate species and quantity must be replanted to bring survivorship above the 75 percent level.
9. Gentle Breeze Drive shown on the CUP application site plan sketch that runs on the north side of Unit 1 shall be the sole vehicular access to the property.
10. The erosion problems associated with the property's driveways shall be corrected to the Environmental Services Department's satisfaction per the general plan outline stated in the CUP application before the CUP operating permit shall be issued.
11. An amendment to the "CIC # 28, A Planned Community, Little Sand Bay Villas" plat that effectively combines Units 8 and 9 as shown on the original plat into a single Unit 8 and any accompanying amendment to the Common Interest Community's Declarations must be recorded with the County Recorder before the CUP operating permit shall be issued.

Johnson 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 is listed as a conditional use in the Use Table located in Section 401 of the SMO. A residential PUD use is more congruent with the surrounding single family home seasonal and year-round residential uses than the previous commercial resort use. The currently proposed use consists of one less dwelling unit than what was proposed/approved in the 2011 conditional use permit (CUP) application which was then found to be consistent with public health, safety, and welfare. The surrounding property uses have not changed since 2011 so the proposed eight dwelling unit vs. nine dwelling unit development ought to be more harmonious with the surrounding area.

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?

There will be no change to the impervious surface coverage on the portion of the property on the east side of CSAH 7. A planting plan will install 24 birch and red osier dogwood in the shore impact zone in an area that could benefit from such. A condition is being placed on this CUP that will address the ongoing erosion associated with the driveway and steep topography observed on the property since the 2011 CUP application. A good vegetative buffer exists in the shore impact zone and will be supplemented through the above-mentioned additional plantings.

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?

Vegetative cover will be increased through the proposed planting of birch and red osier dogwood. Existing vegetation will not be impacted. Existing topography and drainage features will not be altered either other than the erosion control measures that will be implemented along the driveway as part of Condition 10. If anything, these three features will be enhanced as a result of this project because of the required birch and dogwood planting, the erosion control measures that will be implemented along the driveway per Condition 10, and the reduction in the project's dwelling unit number from the nine units proposed in the initial 2011 CUP application to the eight units proposed in this application.

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/floodways in Hubbard County. Thus, the proposed use's location is reasonable in relation to this issue.

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?

Condition 10 on this CUP ought to mitigate the erosion occurring on the existing access road that is the main area of potential erosion on the site. While the soils are sandy and susceptible to erosion, they are also permeable which allows precipitation to infiltrate readily and therefore cause the potential for concentration of stormwater runoff to be minimal. Also, the existing vegetative cover is very good and an excellent mixture of natural forest cover and tree cover intermixed throughout the structures. There is a steep slope on portions of the property, but these areas are forested and undeveloped. Structures are placed on the level portions of the property – leaving the slope undisturbed aside from the existing access road which is reasonably well laid out in that it does not run straight up and down the slope, but somewhat transects it at a 45 degree angle.

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

YES (X) NO ()

Why or why not?

No additional access roads are proposed or needed. The existing access road onto CSAH 7 is located in the best possible place given the property's topography and location of structures. CSAH 7 is a well-traveled, paved road that has been handling the property's vehicle traffic without any reported problems so it is not anticipated that there will be any problems with the vehicle traffic generated by the proposed residential use. A condition is being placed on the permit to make Gentle Breeze Drive the sole access to the property to address a concern of neighbors to the south voiced during the initial 2011 CUP application public hearing process that the easement road in the plat of Little Sand Acres not be used as an access to the project.

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

YES (X) NO ()

Why or why not?

The proposed residential PUD use is compatible with the adjacent land uses which are seasonal and year-round single family residential homes. It will improve the degree of compatibility from that of the previous commercial resort use and is reducing the number of residential dwelling units from the nine units proposed/approved in the 2011 CUP to eight units in this CUP application.

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

YES (X) NO ()

Why or why not?

Yes, it is reasonable for a residential PUD to be in a shoreland location because such a use is allowed in shoreland areas as a conditional use in the Shoreland Management Ordinance.

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?

Yes, the amount of liquid waste to be generated is reasonable because residential uses do not generate a significant amount of septage that would be beyond the treatment capacity/capability of the soils on the property. The existing septic system for Unit 1 is properly sized and a satisfactory compliance inspection is on file for it. The existing septic system for the other units is also compliant and properly sized for the proposed residential use.

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 currently very well screened from the water and probably exceeds the 50% vegetative screening assuming summer leaf-on conditions requirement of the SMO. A condition has been placed on the CUP to require additional trees and shrubs to be planted in the SIZ and thereby further improve the screening in the shore impact zone.

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

YES (X) NO ()

Why or why not?

There is an existing well that has been adequately meeting the water needs of the structures on the property for some time. The two septic systems on the site also are properly sized for the proposed number of residential dwelling units and an alternate drainfield site is shown on the larger septic system's design.

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?

One permanent mooring slip is proposed for each tier 1 unit and one watercraft is allowed for the tier 2 unit. The proposed dock location is sited such that the existing emergent vegetation beds will not be disturbed. No specific watercraft types are proposed that would create known problems for Little Sand Lake. There is a public access on the lake so any number and type of watercraft from any party and location can legally use the lake as it is a public water of the State. Thus, the proposed watercraft in this project can be accommodated by the lake as well as any watercraft legally allowed to use the lake through the public access or any of the other lake properties.

The motion carried unanimously 4 – 0.

Closed the Planning Commission meeting at 7:20 p.m.

Board of Adjustment:

Approval of Minutes: December 19, 2016 meeting.

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

Old Business: None.

New Business:

Variance Application 1-V-17 by Jesse Clack: Part of Gov. Lots 9 and 10, Section 30, Township 140, Range 32, White Oak Township on Loon Lake, a natural environment lake. Parcel 28.30.01000. Applicant is requesting an after-the-fact variance from Section 502.1 of the Shoreland Management Ordinance for a residential structure and attached lakeside deck to be located at less than the required 150' ordinary high water mark setback. Applicant seeks to replace the deck.

Jesse Clack, 13913 County 18, Park Rapids, MN, presented the variance application request. Last month I came into the ESO to obtain a land use permit to replace the deck that is in poor condition on a cabin we purchased in July, 2016. In the process of the application, we discovered the deck on the front of the cabin was at a 130' setback from the lake. A few weeks after that, I had a survey completed and the survey findings showed the deck at a 130' setback as well. That is why I am applying for an after-the-fact variance to replace the existing deck with the same size deck.

Grob asked how long the deck has been in place.

Clack replied the cabin was built in 1992. Judging from the looks of the deck, it appears to have been there since 1992 as well.

VanKempen commented he appreciated the surveyor leaving the setback markers in place for the lot viewal. One of my questions with some of the aerial photos that we had looked at as though the cabin was right on the property line. As you can see by the surveyor marks, it is at least 15 feet from the property line. I don't think the side lot line setback is an issue. You do have the one storage shed that is on the property line in between the two lots. You mentioned moving it into compliance or removing it from the property entirely.

Clack replied correct.

Krueger noticed on the map and during the lot viewal that part of the drainfield was on the other property. Do you have a reason for that?

Clack responded correct. The drainfield that serves the cabin is actually located on the adjoining lot that we also own.

Grob asked Clack if he owned the lot next door.

Clack replied correct.

Krueger asked if moving the property line was ever an option.

Clack responded it is our intention to sell the lot separately as a buildable lot. I was told it was buildable subject to two adequate septic sites.

Johnson asked VanKempen if the shed was too close to the OHW or the side lot line.

VanKempen replied it is too close to the property line. The applicant mentioned moving the shed into compliance during the lot viewal.

Clack responded that his understanding of the main issue with the shed is that there wasn't a permit issued for it, not that it straddled the property line. We will attempt to move it. I don't know how successful it will be as it may not have a floor. If it can be moved, I would like to move it into compliance.

Grob asked Buitenwerf how we address the septic system being located on the adjoining lot if Clack didn't own it.

Buitenwerf replied it is not uncommon to have survey work completed and find septic systems or accessory structures that are straddling or completely across the property line. In those cases, we address those through a variance. Other times, in the case of a septic system, we can do it through an easement for the life of the current system. That is the easiest way to resolve it. We are basing that information on a survey. Surveyors disagree where lines are located.

Grob asked Buitenwerf if we approve the variance, would we add a condition that the owner would need to have an easement for the septic system.

Buitenwerf replied are you asking hypothetically as it doesn't pertain to this variance request. It would be largely left up to the property owners. We would not mandate that they get an easement, but we would recommend that it would be a good practice.

Grob responded if the neighbor didn't have a problem with the location, we wouldn't let that inhibit the ability to approve the variance request. I understand at the current time he owns the other lot. But what happens when he sells it? How does that get taken care of?

Buitenwerf replied Clack indicated during the lot viewal if and when he ever decided to sell the property, he would draw up an easement and convey an easement for the drainfield.

Grob clarified that all of those issues could be taken care of in the future without conflict.

Buitenwerf commented Clack indicated when he had the west line of the vacant lot surveyed, the neighbors' septic system and possible other items could be infringing on his property. You often

run into this situation when people built back in the days when surveying wasn't as accurate as it is now.

Grob asked if moving the shed into compliance needed to be addressed or should we focus on the deck.

Buitenwerf replied the deck as well as the cabin needs an after-the-fact variance as they aren't in compliance with the 150' ordinary high water mark setback. The ESO department would recommend if the Board is inclined to approve the variance that you would do so and specify that it would be for the deck and existing cabin. If and when someone is to purchase the lot or own the lot and would want to build a larger structure, there is room on the lot to do so at a full setback. That would address the current issue and still preserve getting a larger, newer structure constructed at setback.

Krueger noted when I see an after-the-fact request being off 20', we often wonder how it happened. I would imagine with it being a steep elevation the measurement was done inaccurately.

Grob clarified in the application you wanted to keep the same footprint for the deck.

Clack replied correct.

Grob asked for public comment.

No written correspondence was submitted.

No public comment was given.

Grob closed public comment.

VanKempen commented upon approval of the application there would be conditions applied. One condition would be the shed would need to be moved into compliance. The other condition would be as Buitenwerf explained, if/when and the cabin would ever be rebuilt or enlarged it would need to meet all SMO setbacks. Would you be comfortable with those conditions?

Clack replied yes.

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

Conditions:

1. The existing accessory structure labeled "shed" on the variance application site plan sketch must either be removed from the property or moved to meet all Shoreland Management Ordinance (SMO) setback requirements and then permitted.
2. If/when the cabin would ever be reconstructed/rebuilt/replaced, then the replacement structure must meet all SMO setbacks.

Krueger seconded the motion that passed 4 – 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 cabin and deck have been in this location since they were originally constructed in 1992. There is a good vegetative buffer of trees and natural understory between the cabin/deck and lake that screen the structure from view when on the lake. The deviation from the required setback is only 20' from the required 150'. This distance is not enough to warrant moving the cabin and deck back especially when 25 years have passed since the cabin/deck were constructed and there is no evidence on the property nor were any concerns voiced by public comment that the cabin's location has been harmful.

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 have a residential structure and lakeside deck on a riparian lake lot is a reasonable use of such a property. While the lot is large enough to allow for placement of a residential structure at a conforming OHW setback, the 20' setback gained over the existing cabin/deck location does not justify the extreme cost that moving the cabin/deck would require.

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

Yes (X) No ()

Why or why not? There is a steep slope with a 16' rise over a 40' horizontal distance right at the shoreline. It is likely that the previous owner who constructed the cabin/deck had difficulty measuring the OHW setback. If the owner ran a measuring tape over the ground instead of horizontally, it is not difficult to see how the OHW setback measurement could have been off by 20'.

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 was caused by a previous landowner who erred in measuring the 150' OHW setback and thus placed the cabin/deck at a 130' OHW setback instead. The current landowner had no involvement in the cabin/deck construction as he purchased the property in July 2016 and the cabin was constructed in 1992.

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 single family seasonal use dwellings that occupy a little over half of the lots in this development on the southeast side of the lake. The residence on the property to the east of this lot sits at a similar OHW setback. The lot to the west of this lot is vacant. No public comment was received that stated there were any incompatibility issues and since the cabin has been in place since 1992, it appears that the variance will maintain 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.

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?

Why or Why not? The applicant applied for an after-the-fact variance as soon as he learned that such was necessary. The applicant did not construct the cabin/deck. The cabin and deck were built in 1992 by a previous owner. A permit was obtained at the time which stated the cabin would be located at a 200' OHW setback. Based on the steep slope near the shore, it appears the previous owner mismeasured due to topography when determining the cabin's OHW setback.

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

Why or Why not? Yes. The applicant did not own the property when the cabin/deck were constructed in 1992. The previous owner who constructed the cabin and deck did obtain a permit that stated the items would be placed at a conforming 200' OHW setback. The applicant applied for an after-the-fact variance to bring the cabin and deck into compliance as soon as he was made aware of their not meeting the setback.

9. Did the applicant obtain a permit from another entity that violated the law? Provide explanation below.

No. The applicant did not own the property when the cabin and deck were constructed in 1992. The applicant purchased the property in July 2016.

10. Did the applicant make a substantial investment in the property? Provide details below.

Yes. Based on the deed tax shown on the deed that conveyed the property to the applicant, he paid \$65,000 for the lot and the adjoining vacant lot.

11. Did the applicant complete the repairs/construction before the applicant was informed of the impropriety? Please provide details below.

No. The applicant did not do any of the construction of the cabin/deck because they were existing when he purchased the property in July 2016. The cabin and deck were constructed by a previous owner in 1992.

12. Are there other similar structures in the neighborhood? Please provide details below.

Yes. The cabin on the lot adjoining this lot to the east has nearly the same square footage and is located at roughly a 110' OHW setback. The 2nd lot to the east is vacant. The 3rd lot to the east has a cabin on it that has roughly a 90' OHW setback. The lot to the west of this lot is vacant. The 2nd lot to the west has a larger residence on it at roughly a 185' OHW setback.

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?

Yes. The cabin and deck have been in place for 25 years. The vegetation on the lot, if altered during the cabin's construction, has since grown up around it. The cabin and deck have a 130' OHW setback. The required setback is 150'. There is ample tree cover and other natural vegetation between the cabin and lake that effectively screen it from view. Gaining 20' in OHW setback when no public comment concerns were raised during this hearing process and moving the structure would require a significant expense to the landowner does not make sense and would not outweigh the cost to the landowner.

14. In light of all of the above factors, would denying a variance serve the interests of justice?

Why or why not?

No. The cabin and deck have been in this location for 25 years without any apparent damage having been done to the lot, lake, neighboring properties, or parties recreating on the lake. There is plenty of vegetative screening between the lake and cabin so that it does not pose aesthetic concerns or stormwater management issues. The steep slope right at the shore appears to be the cause for the previous owner's having mismeasured the OHW setback when constructing the deck/cabin. Requiring the current owner to incur the significant expense of moving the cabin and deck 20' so that they comply with the 150' OHW setback would not serve the interests of justice and would be extremely burdensome to a landowner who just acquired the property last year.

The motion carried unanimously 4 – 0.

Miscellaneous:

Buitenwerf updated the Board that the Sign Ordinance draft that was submitted to Mr. Anderson for editing to bring it into compliance with the U.S. Supreme Court decision will not be ready for the March meeting as originally hoped due to a scheduling conflict. Mr. Anderson hopes to have something ready for review in April, 2017. As far as the agenda for next month, we have two variance applications that are both incomplete. If one is completed, it doesn't make sense to hold a meeting for one application. We will keep you informed by the end of the week.

Grob commented he will be absent for both the lot view and the meeting in March. I will be available for both sessions in April.

Communications:

Adjournment:

VanKempen made the motion to adjourn.

Johnson seconded the motion.

The motion passed unanimously 4 – 0.

The meeting adjourned at 7:47 p.m.

Respectfully submitted,

Veronica Andres

Recording Secretary