

HUBBARD COUNTY

Planning Commission/Board of Adjustment meeting minutes

6:00 p.m. on Monday, November 23, 2015

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

Tim Johnson 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 October 26, 2015 meeting.

Old Business: None

New Business: None.

Miscellaneous: None.

Board of Adjustment:

Approval of Minutes: October 26, 2015 meeting

Krueger made a motion to approve the October 26, 2015 minutes as presented.

Van Kempen seconded the motion.

The motion carried unanimously 5 – 0.

Old Business: None

New Business:

Variance Application 54-V-15 by Kenneth and Susan Jost: Lot 27, Crow Wing Heights, Section 9, Township 139, Range 33, Crow Wing Township on 3rd Crow Wing Lake, a Recreational Development Lake. Parcel 06.41.02600. Part 1: Applicants are requesting a variance from Section 502.2 of the Shoreland Management Ordinance (SMO) for a proposed detached garage at less than the 10' side lot line setback and less than the 100' ordinary high water mark (OHW) setback, Part 2: Applicants are requesting a variance from Section 801 of the SMO for a proposed detached garage to be less than 10' from an existing septic tank.

Ken and Susan Jost presented a brief description of the variance application as a proposal to build a garage on a lot and the location is too close to the lot line, septic tank and ordinary high water setback.

Christenson asked if the plans included rain gutters and drainage.

Jost replied that they did not include those plans and the drainage will run toward the lake. Because there is a swale and the cabin is over 100' away, there will be no erosion.

Christenson explained that the concern is runoff on to the road. Were you planning on putting on gutters?

Jost responded that they can put gutters.

Grob expressed that it seems like your lawn tends to have a little bit of a slope toward the road and it seems that whatever we do here should be built in such a way that the water that is running off the garage probably with gutters should be directed away from the lake to the road.

Jost asked if he meant the garage door side of the building.

Grob replied yes, with the increased roof and impervious surface, there will be more direct runoff lakeward of where you want to put the garage. It looks like it slants directly towards the lake.

Krueger asked if there was an impervious surface calculation done on this property.

Grob commented that it was calculated with 25 square feet remaining.

Buitenwerf explained that it was very close as Grob indicated.

Jost suggested planting more grass.

Johnson opened the discussion for public comment.

No public comment given.

Received public written correspondence from Audrey Jones.

Closed public comment.

Johnson commented that on the easement, was the structure in the easement or out of the easement?

Buitenwerf commented that as proposed in the application, the garage would be outside the 50' easement that runs at the rear of the lot.

Johnson asked if Audrey Jones is the neighbor.

Jost replied yes to the east.

Grob asked if she is ok with the encroachment.

Johnson expressed that we have a correspondence from her expressing approval.

Van Kempen again expressed concern regarding runoff.

Grob made a motion to approve the variance application with the condition that the garage is built at the proper elevation and with gutters so that all stormwater from the garage is directed to the rear (non-lakeside) of the lot 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 (X) No ()

Why or why not? The lot is narrow at 60' and its depth is limited by the unique 50' wide ingress/egress easement at its rear (the lot is a few feet shy of 200' in depth). The SSTS tank is already in place and the location of two existing storage sheds on the west side of the rear of the lot do not allow the garage to be sited on that side of the lot. The owners have attempted to comply with the setbacks as much as possible – giving weight to the setbacks in the appropriate order of ordinary high water mark first, SSTS tank second, and side lot line third.

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

Yes (X) No ()

Why or why not? Having a detached garage for a residence is a reasonable use – especially during the winter months in this part of Minnesota.

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

Yes (X) No ()

Why or why not? The lot is only 60' wide and a few feet shy of 200' deep. The ingress/egress easement at the rear of the lot consumes 50' of lot depth from the NE lot corner. The SSTS tank is located where it makes the most sense in terms of location relative to the residence. Two existing storage sheds on the west side of the lot that were there before the landowners acquired the property preclude moving the garage further to the west. If the garage were moved to comply with the side lot line setback, there would not be room to meet all the other required setbacks between the SSTS tank and garage and the SSTS tank and the side lot line – so some form of variance is required to fit these two items in the width of the lot.

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 platted in the 1960s by another party who then also established the 50' easement on the rear of the lot. The SSTS tank and two accessory storage structures were placed by previous owners of the property.

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

Yes (X) No ()

Why or why not? The area consists of single family year-round and seasonal residences. A detached garage such as what is proposed is a typical accessory structure on a residential use lot.

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

Yes (X) No ()

Why or why not? Economics were not cited in the application as the sole difficulty. The difficulty is the narrowness of the lot (60') and the lack of depth (197') coupled with a 100' OHW setback and a 50' deep easement at the rear of the lot.

The motion passed unanimously 5 – 0.

Variance Application 55-V-15 by Harold Finn: Lot 1, Block 1, Utley Point, Section 11, Township 145, Range 32, Farden Township on Midge Lake, a Recreational Development Lake. Parcel 07.54.00100. Applicant is requesting a variance from Sections 902.1, 902.4, and 903.2 of the Shoreland Management Ordinance to move more than the permissible volume of earthen material in a shore impact zone, alter a permanent ice ridge, and install a private watercraft access ramp.

Harold Finn and Ken Schill, who is one of the brothers who has proposed to purchase the property with the purchase contingent upon this variance to get access for their watercraft equipment, presented the application. One of the questions at the site visit was would we consider doing rip-rap as one of the conditions beyond what had been indicated in the proposal. We are asking to remove part of a permanent ice ridge on the western side of the property on the north side of Midge Lake in order to do two things: 1. provide a watercraft access for the owners to put their boats in and out and the dock, and 2. shore up the shoreline which has significant erosion.

Grob commented that one of the reasons behind the need for this was the loss of an access point on Lot 3. What has caused this difficulty for you?

Finn explained this property was at one time a resort and later divided into four lots some time ago. The original water access was down on the east end of the property which is now Lot 4. This property itself which causes the unique hardship is just basically the nature of the property. You have the earthen berm there and the ice ridge that has developed over the years.

Krueger explained that while out there on lot viewal in looking at the elevation of where you want to put this dock, it was difficult for me to see where there is a hardship. Seemed to me you could remove some trees and be able to put a dock down there and roll a dock over the berm without cutting into the ice ridge.

Finn commented that this was looked at and thought about. I actually went out and looked at it again today to see if we could put a dock in and pull it out down in front of the house on that little point of land that is still dry. That will not work unless you are going to disassemble your dock every time in and out. It is not just the dock. There is an issue putting in a boat lift and the boat. On Midge Lake, there is one public access on the west side of the lake and the road is very primitive. You could not drag a boatlift or pontoon through that narrow trail to get to the public access.

Krueger expressed that even where you are proposing this project does not seem like that much elevation.

Johnson opened the discussion for public comment.

No public comment given.

Received public written correspondence from Peter Lendway.

Closed public comment.

Grob stated that the applicant is applying for a variance to put a cut in the ridge so that you could launch and remove a dock and lift. You have also stated that it would be used to launch your watercraft. I do not think that is an allowable use that you can have a private launch site. You need to use the public access.

Buitenwerf explained that you are allowed an access ramp that is proposed through the variance process for being able to launch and retrieve your own individual watercraft.

Christenson noted that there would be boat launching there instead of going to the public access.

Finn explained that the public access is not suitable for watercraft of any significance.

Johnson explained that on the south side of the lake, it is flat and most residents use their own property. On this site, I was looking for what harm to the lake there would be if it was there. Because of the topography, it slopes off to the lake. Even with what is proposed, there would not be runoff.

Finn commented that putting docks in and out without doing anything would be impossible without doing significant vegetation alteration because there are a number of trees that are ready to fall into the lake that will have to be removed. We also have to create some sort of an opening in there to do that. If you look over that edge onto Midge Lake where it is washed out, it is almost like a steep cliff drop off. It is not a rounded berm as our neighbor to the east has, which is about a three foot lift. Where we are at on the west side of the property, it is about a six or seven foot from the top of that berm to the water level. Is the greater public good served by not doing anything or by granting the variance request? If you look at the erosion in there, it is very significant and is causing black dirt and other material to be washed into the lake. If we can get in there and stabilize even 15, or 20 feet of that shoreline, we will have a net positive environmental impact.

Johnson agreed that the shoreline will erode into the lake without doing anything.

Grob explained that something needs to be done right in front of the ramp or there will be even worse erosion. If you are putting this ramp in, you will want to put rip rap right at the base of that maybe a couple feet high otherwise you will have erosion.

Finn explained that there would be some rock right in front of the ramp not as large as the rip-rap on the edges. The new owners are willing to do additional rip-rap to the area.

Christenson expressed that the ramp should be decreased to 10 feet in width.

Finn commented that they would be fine with that.

Christenson made a motion to approve the variance application with two conditions: 1. the access ramp width cannot exceed 10', and 2. rip-rap must be installed across the front toe of the access ramp cut and adopt the staff report findings of fact.

Grob seconded the motion.

Findings of fact:

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

Yes (X) No ()

Why or why not? Without a ramp, the owner is deprived of a safe and reasonable way to install and remove a dock and boat lift from the shoreline due to the height and angle of slope of the property along the entire property shoreline. Being able to have a dock and boat along the shoreline of one's riparian property is a reasonable expectation. The property's consistent near-shore slope and height of land do not provide a location conducive to installing/removing a dock and lift without a variance.

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 reasonably install/remove a boat lift and dock on this lot is a reasonable use. Riparian lots are purchased with the expectation that a landowner will have the ability to install a boat and dock off the property's shoreline.

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

Yes (X) No ()

Why or why not? The difficulty is caused by the steepness of slope near the shoreline that is not conducive to installing and removing a boat lift and dock.

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

Yes (X) No ()

Why or why not? Same answer as given for Question 3 - The difficulty is caused by the steepness of slope near the shoreline that is not conducive to installing and removing a boat lift and dock.

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. Having a boat lift and dock on the shoreline of such properties is a typical accessory

feature. Having an access ramp to facilitate placement of a lift and dock on a steep slope/bank would not harm the locality's character.

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

Yes (X) No ()

Why or why not? Economics were not cited in the application as the sole difficulty. The application does not state any practical difficulty.

The motion passed unanimously 5 – 0.

Variance Application 56-V-15 by Warren Family Farms, Inc.: Part of Gov. Lot 6, Section 5, Township 139, Range 34, Hubbard Township on Long Lake, a Recreational Development Lake. Parcel 14.05.00400. Applicant is requesting a variance from Section 901 of the Shoreland Management Ordinance to convert a vegetated area in the shore impact zone to a nonvegetated cover.

Michael Warren presented the application as a site that has a couple of issues of drainage from the north and from the south. It goes around the house and has a tendency during the frozen part of the year to go all away across the yard and over flood the bank down into Long Lake. During the summer there is a big flat area there, actually during most rain storms, infiltration flows across the property. We are requesting to reconstruct a stone channel to move the runoff to the lake without harming the shoreline and stabilize the soil.

Christenson asked if trees had been removed since you owned the property.

Warren replies that they had not removed any trees. It was all clean before we got there. We have removed dead trees.

Christenson asked if any fill has been hauled in or seeded grass.

Warren explained that they had not done anything to the yard in 20 years. We added 100' of rip-rap about 6 or 8 years ago.

Christenson mentioned that there was a sign up for landscaping - could you explain what was done.?

Warren responded that they put in a retaining wall by the house. It was a bank that was difficult to mow so we put rock to stabilize the hill.

Christenson commented that on the way down to the lake, there was mesh near the edge of the house. It was snow covered. What was the purpose of that?

Warren noted that the stone was extended out from the other end of the house. This was done to clean up a wall that was already there with stone.

Grob commented that there looks to be a major collapse or recent erosion event based on the grass and everything that is there. Have you done any other variations on the property that have accelerated the water running off the property to this location?

Warren explained that the only thing that they have done is the work to the two walls that you have seen. The problem with the erosion in the middle has been ongoing and we have been working with the Environmental Services Office even before the two walls were put up.

Grob noticed what appears to be new construction up by the house and you have an eight inch drain pipe and all the water comes off your roof and goes into gutters.

Warren commented that it was a six inch pipe that comes from the back side of our property and we picked that up off of the New Frontier Resort. We put in a basin there so that six inch pipe comes from the other end of our property past our house because it was eroding so badly around our house. We put that in just to get it past our house.

Grob mentioned that the outlet was at the slope of the hill. Where is the inlet to it?

Warren explained that it is on the backside near the entrance driveway. The New Frontier Resort property is beside us to the north.

Grob noticed that where the down spouts come out on the back side of your house, there is one of those pipes that go into a pipe. Where does that go to?

Warren answered that there is another basin to the north on the other end of our property and that also picks up the water from the New Frontier Resort.

Grob asked to clarify that all the water from the end of your property is all funneled directly into the lake.

Warren responded no, we are 120 to 130 feet from the lake.

Grob explained that water from even off your property is run through this pipe to the lake.

Warren explained that it comes onto our property just off of their property, yes. We put in a sand trap to catch the sand and runoff. It overflows that and runs down along side of house.

Grob asked if there was any way to prevent that from coming onto your property.

Warren suggested that it did not always come down that way. It went down their driveway, but the resort rebuilt the driveway one foot to one half feet higher than before, which has been sloped to our property.

Christenson asked if Soil and Water has been contacted to see if they would have any suggestions and did you think at all about putting something along the lake such as a rain garden to catch the water.

Warren commented that if you look at the property, there is a berm across there that kept water from going directly south through property onto the neighbor's property. This trapped the water from going further south so what I propose to do is to take that out of there and it will carry it down to the south which is a much more gradual slope. We are not looking to put all of our water and the neighbor's water onto the neighbor's property so we could send 20 to 30% of the water and send it to the south and then we would address how to take the rest of the water across the yard.

Johnson opened the discussion for public comment.

No public comment given.

No public written correspondence received.

Closed public comment.

Johnson asked if the recommendation for remedy was prepared by a professional or did you come up with the remedy?

Warren explained that he had talked to three landscaping people and that is what they had recommended as well.

Johnson asked if they gave you a written plan.

Warren commented that no, this is what they recommend and I wrote it up. Due to the steepness of the slope, he said we will have a hard time holding anything on that so his recommendation was that we do not use large rip-rap, but use something more like a six to one foot diameter rock. The soil is very sandy.

Johnson explained that he went over the slope and felt the dirt and it is real course sand with no stable soil at all within the structure to really hold. It will continually erode.

Warren mentioned that it was a nine feet drop, and it gains energy. It is really a problem when the ground is frozen.

Christenson commented that whatever we do long-term, there is a need for a no mow zone and also vegetation to be planted along the shoreline so that you have roots that will hold the soil.

Warren explained that rip-rap was put in on the other side to hold the berm and once it stabilized the toe of the berm, the natural grasses took over.

Van Kempen noted that at the lot viewal standing at the lake shore and looking up at the house, it is nothing but mowed grass. There is nothing to stop the water flow from the house to the lake. If something like what you propose is put in and the water continues to come from the house area, it will work the edges of this and you will have the same issue only where you do not have the rocks. We have covered only part of the solution.

Warren suggested the water be diverted to the south. There is an empty lot there, but not sure what the neighbor would say.

Buitenwerf commented that the Ordinance doesn't really get at that in plain language, but it does say that landowners are encouraged/advised to manage the stormwater generated on their property so that it does not become an issue for neighboring property.

Warren responded that if the neighbors managed theirs, I would not have a problem.

Grob mentioned that there is a need for some level of rip-rap or a rock chute has to be done, but I would be reluctant to just allow a variance for that to be done without some overall comprehensive plan done by a professional that does a much better job of managing stormwater runoff. The way your property is and the way you are channeling things, you literally have an open storm drain right to that location and I think in the long haul you will see continued erosion and the Soil and Water Conservation District or the DNR's Environmental Resources and Waters Division have people that are expert in this. There are rain barrels, rain gardens, buffer zones and a lot of alternatives that can slow down the runoff from your property. To approve this variance without solving the larger problem or have a commitment to solve it as a larger problem does not make sense to me.

Warren commented that if everyone took care of their own water, I would not have a problem because we have a very small area. What can the County do to help me take care of the water coming onto my property?

Grob mentioned that there are trees and vegetation in between properties. Doesn't that slow down the runoff from other properties?

Johnson noted that the application as it is being requested is on shaky ground with the Board. Would you like to table your request to get professional help for a design or would you like us to act on your request.

Warren stated that he would like to have the Board act on the request since this project needs to be done during winter per the contractor.

Christenson asked if they could approve the variance with the condition that Environmental Services approve the project.

Buitenwerf responded that it is preferred that the Board needs to see a revised plan with professional assistance before acting rather than approving the variance subject to departmental approval. It is recommended that this variance application be tabled to give Mr. Warren the time to get that together and submitted for your review or you act on the application that is presented.

Johnson asked if the variance is denied, can the homeowner apply again within a year?

Buitenwerf responded that if it is the exact same application, we would not be able to hear it again for a year. If it is a new professional design or a different plan that was not the exact same thing, that could be heard without having to wait that year.

Warren asked how long this can be tabled.

Buitenwerf answered that a form would need to be completed that would allow for an indefinite extension.

Warren replied that he would like to table this variance application.

Johnson noted for the record that Mr. Warren will table the variance application until a new plan can be developed.

Buitenwerf addressed the Board that the completed form is to extend the application indefinitely to provide additional information.

Christenson made a motion to table the variance application to allow the applicant time to obtain a professional plan for this project.

Van Kempen seconded the motion.

The motion passed unanimously 5 -0.

Miscellaneous: None.

Adjournment:

Van Kempen made a motion to adjourn.

Grob seconded the motion.

The motion passed unanimously 5 -0.

Submitted respectfully,

Barbara Barth

Recording Secretary