

HUBBARD COUNTY

Planning Commission/Board of Adjustment meeting minutes

6:00 p.m. on Monday, July 27, 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.

Board of Adjustment:

Johnson reviewed the status of two of the variances.

Variance Application 22-V-15 by Jane Hall-Dayle: Lot 3, Block A, Second Addition to Pine Haven Beach, Section 17, Township 139, Range 34, Hubbard Township on Long Lake, a Recreational Development Lake. Parcel 14.38.50200. Applicant is requesting a variance from Section 502.2 of the Shoreland Management Ordinance for a proposed new residence (to replace an existing cabin) that will not comply with the 100' ordinary high water mark and the 10' side lot setback.

Johnson commented that this variance application has been withdrawn by the applicant since she will be able to do what is needed with a permit.

Variance Application 26-V-15 by John Masek: Part of Government Lot 4, Section 6, Township 141, Range 33, Mantrap Township on Big Mantrap Lake, a Recreational Development Lake. Parcel 20.06.02400. Applicant is requesting a variance from Section 502.2 of the Shoreland Management Ordinance for a proposed accessory structure that will not comply with the 10' side and 10' rear lot line setbacks.

Johnson commented that this variance application has been tabled indefinitely by the applicant.

Approval of Minutes: June 22, 2015 meeting

Grob made a motion to approve the June 22, 2015 minutes as presented.

Krueger seconded the motion.

The motion carried unanimously 5 – 0.

Old Business: None

New Business:

Variance Application 21-V-15 by Garrick Larson: Lot 8, 9, and 10, Block B, Camp Kenjocketee, Section 18, Township 142, Range 35, Clover Township on Little Mantrap Lake, a Recreational Development Lake. Parcel 05.37.04700. Applicants are requesting a variance from Section 703 of the Shoreland Management Ordinance for a proposed second deck/platform (only one deck/platform is allowed) that would encroach closer toward the ordinary high water mark

(OHW) than the allowed 15% of the existing structure's OHW setback on a nonconforming cabin built prior to enactment of the ordinance.

Garrick Larson reviewed that the request for a variance is for a patio of regular shape not to exceed 400 square feet. The primary reason for this request was that the primary intent in the variance last fall was to build this patio. Due to a change in the ordinance this spring, the patio pavers on the lake side of the cabin now require a variance.

Christenson wanted to know why there was a need for an upper and lower deck.

Larson expressed that with the age of his in-laws, the lower level would make it easier for them, with level footing. The cabin is under construction on the inside, but the lower level includes a kitchen and living area with a place where you come out.

Christenson stated that the kitchen is on the lower level and that there are water problems with the lower level.

Larson explained that on the non-lake side of the cabin, the variance that they received last fall for fill was not completed because it froze before they were able to do the project. Then this year when the Ordinance changed, the contractor wanted to be sure that what they were doing still was allowed with the new Ordinance and the original plan.

Christenson wanted to know what part of the project was needed to solve the lower level water issue to make the lower level of the cabin usable.

Larson explained that what is not completed is the two tier retaining wall. On the lakeside, the erosion control has yet to be completed.

Christenson mentioned that once the lakeside of the patio is completed, that will take care of the water problem.

Van Kempen commented that since he was not on the Board last summer, does the contractor doing the work have any drawings that show the platform that you would like to make on the lower level.

Larson produced a drawing from the communications on the variance from last summer, including a letter from Environmental Services regarding an incomplete variance application and number three shows that the County is recognizing my intent to have a deck and platform as proposed.

Christenson commented according to memory how far out was the upper deck going to go, can you give me the dimensions.

Larson commented that it was 7 1/2 feet.

Christenson asked what the dimensions along the side are.

Larson stated that would be 16 feet.

Christenson commented that during the lot viewal since the Ordinance has changed that you could make the upper deck a walkway and then put your deck on the lower level where the pavers are.

Larson commented that he thought that the conversation was about the front side deck, so I did not connect that specifically to the north side of the cabin. When we put the siding on, there are deck boards along the lake side and the north side of the cabin. With a walkout basement, there is some benefit to having a place to sit on both levels.

Grob stated that our ordinance clearly states that either a deck or a platform is allowed that can encroach lakeward 15% which would be 7 ½ or 8 feet in this case. The argument that you are making is that the platform should be allowed because it was sort of sketched out in the original variance a year ago and was told it did not have to be part of the variance. What actually was proposed for a platform in the prior variance because the 15% has always been there and yet you show something that is at least double that dimension toward the lake. What actually did your sketches or variance show for a platform a year ago?

Larson reviewed that at the time of the variance, it was my understanding that under the old Section 706, you could have a platform that does not encroach closer than 30' and does not exceed 400 square feet. This did not require a variance last year. So when the application was resubmitted, the reference to the deck and platform were removed because it was not required as part of the variance.

Krueger asked with the kitchen in the lower level which would give you the most reasonable use - a deck on the upper level or a platform on the lower level.

Larson remarked that the view of the lake would be better from a deck and the lower level has its advantages in that it is where people would congregate more. If we take off the deck on the front side of the cabin, would that be more amiable to the Board.

Johnson opened the discussion to public comment.

No public comment given.

Johnson closed public comment.

Johnson asked Buitenwerf if he is allowed a four foot wide walkway from the front of the house to the stairway.

Buitenwerf answered correct.

Johnson asked if he is allowed any paving stones or anything in front of that patio door without a variance.

Buitenwerf responded that he could do a four foot wide sidewalk to the stairs that are in place or he could also chose to utilize his permit rights to place either a platform or a deck down on that walkout realizing that he is limited to a single deck or platform. The limit would be no closer than 15% waterward of the structure setback not to exceed 30' setback from the ordinary high water mark.

Grob asked if he chose to do the deck, would the property owner be entitled to have a four foot path right in front of the building the whole width in front of the patio doors and then out. That would be considered a platform.

Buitenwerf replied yes it would be considered a platform.

Christenson commented that if you took the deck off the lake side or the other side, the contractor could take those boards off and put siding on them.

Larson asked if last August or October when the final variance came through, if I had a permit for both a deck and a platform, but was not able to construct it because of the timeline and the weather, would I have been allowed to finish them this spring.

Buitenwerf explained that if you were able to finish the platform within the year window of the permit, then you would have been allowed to do so.

Larson asked if Section 706 required a permit for a platform last year.

Buitenwerf replied yes.

Larson explained that he still needs clarification on the deck that is not closer to the water than the front of the house. Am I able to keep any width of deck from the edge of the house lakeside rearward regardless of what happens with this proposal? Is the variance required only for a deck that is lakeward of the house.

Buitenwerf responded that the answer to that is no, the Ordinance only allows one deck or one platform even if the deck is pulled back to the lakeside exterior of the cabin. If you were to have a deck on the side of the cabin, then that would preclude the ability to place a platform on the lakeside without a variance.

Larson commented that he would prefer not to amend this application; the size of the deck would be more advantageous in the scheme of things.

Grob noted that his current proposal is for an "L" shaped deck about 16 feet wide to the left of the house as you face the lake and then an "L" section in front and a patio below. If he did not do the deck in front, so that the fact that he is building a deck to the side precludes him having a patio in front. The side expansion of the deck takes up his one option for a deck or platform.

Christenson asked that if he kept the upper deck, the four foot sidewalk with paver down below could be from the single door or the sliding door to the step to be four foot wide.

Van Kempen asked if he is allowed to put anything from the basement door over to the sidewalk.

Buitenwerf explained that from the single people entrance door to the stairway to the lake, a four foot wide sidewalk would be allowed and then he could do a four foot wide section to tie in the entrance to the sliding door to that sidewalk.

Christenson asked if planting could be done where the grass was sparse right now.

Buitenwerf replied yes with a vegetation alteration permit.

Larson asked if seeding the existing grass required a permit.

Buitenwerf explained that if you are over seeding the current grass, no permit is required. If you are replacing the grass with some other form of vegetation, then a vegetation alteration permit is required.

Grob made a motion to deny the application and accept the staff report findings of fact.

Christenson seconded the motion.

Findings of fact:

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

Yes () No (X)

Why or why not? The landowner intends on constructing a lakeside deck by permit in compliance with Section 703 of the shoreland ordinance. This section allows a lakeside deck or platform to be built on a cabin that predates the ordinance so long as the deck does not encroach lakeward more than 15% of the structure's OHW setback and it does not go closer than 30' from the OHW. The proposed platform would encroach lakeward of the cabin 27% of the cabin OHW setback. It would be 37' wide when the cabin is only 16' wide. Access to the lakeside exterior door on the cabin can be achieved by a 4' wide sidewalk that is allowed.

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

Yes () No (X)

Why or why not? A residential cabin serviced by a septic system exists on the lot. The lot can be used recreationally for lake access and enjoying the outdoors. All of these uses are reasonable. The owner can also build a single lakeside deck or platform by permit if it complies with Section 703 of the shoreland ordinance. The owner has plans for such a deck that will also extend 16' wide alongside the cabin and then run its full length.

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

Yes () No (X)

Why or why not? The cabin is a walkout basement style of construction which is not unique to this property as that is a common construction style found on lakeshore lots. The owner is allowed one lakeside deck or platform which the application shows the landowner will construct. The landowner wants a second lakeside deck or platform. Thus, the difficulty is more a "want" of the landowner to have a deck and a platform instead of being due to a unique circumstance of the property that prevents compliance with Section 703 of the shoreland ordinance. The owner is able to build a deck in compliance with said Section.

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

Yes () No (X)

Why or why not? The landowner's variance application shows plans for a lakeside deck that can be built in compliance with Section 703 of the ordinance. The difficulty is created by the owner wanting a second such structure on the lot that greatly exceeds the lakeward encroachment allowed for such.

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

Yes (X) No ()

Why or why not? The locality's character consists of single family seasonal and year-round homes. A lakeside platform is a standard accessory feature of a residence. At 16' x 37' in proposed dimension though, the platform is pushing the size envelope where it could be viewed by some as harming 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 as a difficulty in the application. There is not a practical difficulty in complying with the setback requirements in Section 703 as shown by the application's sketch that depicts a proposed deck in compliance with said Section.

Motion carried unanimously 5 – 0.

Variance Application 23-V-15 By Rodney Ambrosie: Part of Government Lot 8, Section 1, Township 142, Range 32, Steamboat River Township on Kabekona Bay, a General Development Lake. Parcel 24.01.00900. Applicant is requesting a variance from Section 502.3 of the Shoreland Management Ordinance for a proposed platform that will not comply with the 75' ordinary high water mark setback.

Brad Baird of Aspen Construction representing Rodney Ambrosie reviewed that this is a paver stone patio that sits out front of the house with a raised fire pit in it. This is within the 75' setback of the lake and there is a small short retaining wall on the back side of the patio because of the slope of the land.

Christenson reviewed that at the lot viewal in a conversation with the landowner, he indicated that he would be willing to move it back 12 feet.

Baird explained that he is willing to do that which would get him out of the 37 ½ feet.

Grob asked why the existing fire pit in its current location doesn't serve the desires of the owner.

Braid commented that it is slippery for them because it has about a 10% grade in it and with his parents coming there, he would like something flatter to sit on with their chairs around a fire pit.

Van Kempen stated that the current fire pit that we see in the photos is approximately more than 35' away from the ordinary high water mark.

Braid stated that the current one is more than 37 ½'.

Van Kempen explained that the property owner was willing to put the platform behind that closer to the house.

Braid replied that he is willing, but if he did not have to he wouldn't. He is an engineer for the watershed district in Becker County so he is aware.

Krueger stated that having been out there and seeing that there is room available, he would like to see it moved back to back to 37.5 feet.

Johnson opened the discussion to public comment.

No public comment given.

Johnson closed public comment.

Johnson commented that he would be in favor at the 37 1/2"; it will contain the ashes from runoff to the lake and reduce the slope where people will be gathering.

Grob expressed that the current fire pit is adequate to serve the needs. They have a large deck and they have a large piece of property and are building a guest house next door with a possibility of a place for a fire pit there and because there is no buffer to the water, I am not inclined to support a patio with a fire pit anyplace between the house and the lake.

Johnson stated that people like to sit and look at the fire in front of the lake and they are going to be there whether this is there or not, they are allowed to have a fire without a permit. They can have what they have and what is being proposed is better than what will be there.

Krueger stated that the reasonable use of the lakefront property is for people to have a fire pit and due to the location of the house, the only place for a fire pit would be in the back of the house so it does seem reasonable for me.

Grob commented that the criteria is not with what is reasonable rather is there a practical difficulty which prevents them from having this use or is there somewhere else on the property or at its current location that a lot of things are reasonable, but they do not necessarily support good shoreline management practices.

Johnson explained that the structure is squeezed between the road and the lake and that is going to be the natural gathering area and reasonable or not there will be people sitting in front of a fire at this house.

Van Kempen expressed that if the applicant is willing to alter his request...

Braid replied that they will amend the permit to reflect that on the drawing the front face of the platform will get behind the 1/2 of the 75' mark so further than 37 1/2 feet back from the ordinary high.

Johnson made a motion to approve the application amended to a 37.5' ordinary high water mark setback for the platform.

VanKempen seconded the motion.

Findings of fact:

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

Yes (X) No ()

Why or why not? By allowing the gathering area to be flattened and containing fire ashes from running into the lake, we are in harmony with the intent of the Shoreland Management Ordinance

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

Yes (X) No ()

Why or why not? A level gathering area around the lakeside fire is a reasonable use.

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

Yes (X) No ()

Why or why not? The structure is squeezed between the road and lake setback creating the front lakeside hill as the gathering area.

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

Yes (X) No ()

Why or why not? The topography existing road and structure location were not created by the current owner.

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

Yes (X) No ()

Why or why not? Most all the neighbors have a level gathering area lakeside of the residential structure.

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

Yes (X) No ()

Why or why not? Due to the topography, structure, size and location existing road location, the platform would need to be in the agreed location.

Motion carried 4 – 1 with Grob voting nay.

Variance Application 24-V-15 by David and Pamela Kuechle: Part of Government Lot 2, Section 28, Township 139, Range 33, Crow Wing Lake Township on 1st Crow Wing Lake, a Recreational Development Lake. Parcel 06.28.00250. Applicants are requesting a variance from Section 902 of the Shoreland Management Ordinance to remove part of a permanent ice ridge and move more than the permitted 10 cubic yards of material in the shore impact zone.

David Kuechle presented a summary of the request as an ice ridge with barbed wire in it and would like to get the barbed wire out. In order to remove the barbed wire from the ice ridge, we will be removing this ice ridge. There will be approximately 30 yards of dirt moved in the 75 feet we are requesting. In purchasing this property we are unable to use the lake if the barbed wire cannot be removed.

Krueger agrees that the barbed wire needs to be removed since it is a safety hazard. This could be removed without removing the ice ridge especially 75 feet. This could be done by hooking a piece of equipment onto the barbed wires and pulling it out.

Koehler commented that the wire is too old and rusty and would break and then you would have to try to find the ends again. There are two strands that go up and down into the heave and there are certain spots where there are more than two strands - some have four strands.

Krueger stated that if you got all that are visible taken out, all the rest would be buried.

Kuechle mentioned that with wear and tear, pieces could come through as a safety concern.

Christenson reviewed the photos showing that on the ice ridge are very mature trees.

Kuechle explained that there are not a lot of trees along there other than a big pine.

Christenson asked if the trees we are seeing here are behind the berm. It looks like they are right on the top of the berm.

Kuechle commented that there is one that is right directly on top of the berm.

Christenson noted that clearly the berm has been in place for many years. Did you see the barbed wire before you bought the property?

Kuechle stated that he did not and did not realize you could not remove something because of it. The property is no good to me the way it is.

Van Kempen explained that there is minimal barbed wire in the berm itself. You can see that the fence posts have rotted away. The few that are there are wooden ones and are above the ground. A person could hook onto the barbed wire to remove it. You are only allowed a 15' X 20' recreation area and that area could be cleared of barbed wire quite easily. Some of it is coiled up all ready and no doubt it has been there for a number of years, but do not think it has been out there as long as the ice ridge.

Kuechle asked if the ice ridge is not very old.

Van Kempen stated that the ice ridge is very old and you can see the age of the trees that are in the ice ridge. They would have had to have grown after the ridge was created and some of them are 30 or 40 years old.

Kuechle stated that the barbed wire has to be that old also.

Van Kempen responded that the ice ridge is probably older than the barbed wire.

Johnson opened the discussion to public comment.

Joan Lueth explained that not understanding the geology of berms and ice ridges, is it possible to take the barbed wire out and put the soil back.

Johnson closed public comment.

Johnson asked if any cut in the ice ridge could happen without a variance.

Buitenwerf responded correct.

Johnson mentioned that he could build a recreational spot on the landward side of that ice ridge 15' x 20'.

Buitenwerf explained that the recreational spot would need to be vegetated.

Johnson asked how much excavating or fill could be done in this area.

Buitenwerf explained that they are allowed up to 5 cubic yards without a permit and 0 to 10 additional above the 5 cubic yards with a permit.

Johnson commented that with a little fill they are able to have a recreational area using fill to slope that area.

Grob explained that he is allowed to cut a path out to the ice ridge and on the lakeside of that ridge he can have a 15' x 20' recreational area and then place an appropriate structure to go over the ice ridge to a dock. The barbed wire can be removed without removing the ice ridge, but still have the opportunity to make a reasonable recreation area down by the lake.

Krueger made a motion to deny the variance and accept the staff report findings of fact.

Christanson seconded the motion.

Findings of fact:

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

Yes () No (X)

Why or why not? There are ways of removing the barbed wire that do not require complete removal of the ice ridge. Taking out 75' of an ice ridge to address barbed wire partially buried in the ice ridge is not in keeping with the ordinance intent. The wire can be pulled from the ground with a set of forks on a skidsteer, dug out with shovels, or cut off flush with the ground as needed.

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

Yes () No (X)

Why or why not? The lot was approved to be created by variance. So a house, accessory structures, well, and septic system can be placed on the lot – which are reasonable uses of the property. The lot can also be used to access the lake for recreational purposes and enjoy the outdoors – other reasonable uses.

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

Yes (X) No ()

Why or why not? The alleged difficulty is the presence of a lot of barbed wire in the ice ridge – which is unique.

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 barbed wire was placed on the lot a long time ago by a party other than the landowner who acquired the lot in June of 2015.

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

Yes () No (X)

Why or why not? The locality's character consists of single family seasonal and year-round homes. Removing a 75' section of a permanent ice ridge would alter the locality's character by significantly disturbing the aesthetics of its shoreline and opening up a wide area to potential erosion, loss of shoreline, and deposition of nutrients and sediment into the lake.

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

Yes (X) No ()

Why or why not? The cited difficulty is the presence of a large amount of barbed wire in the ice ridge. Economics were not cited as a difficulty in the application.

Motion carried unanimously 5 – 0.

Variance Application 25-V-15 by Joan Lueth: Part of Government Lot 2, Section 7, Township 145, Range 33, Helga Township on Lake Plantaganet, a Recreational Development Lake. Parcel 11.07.00200. Applicant is requesting a variance from Section 702 of the Shoreland Management Ordinance for a proposed lakeward expansion of a nonconforming residential structure.

Joan Lueth presented the request for the variance to put a roof over an existing patio in front of the house.

Christenson commented that a discussion was held about an awning while at the site visit to the property.

Lueth explained that after the storm of 2012 with the loss of the trees, part of the plan was to replant trees and part of that was operating shades and blinds that were in the house when we bought it. Looking at an awning from several different companies was definitely part of the plan, but the expanse of the patio is 20' and most companies are either a 20 or 21' maximum, so it would stretch the maximum. It would not necessarily facilitate the longevity of the awning and

with the winds on the lake; any kind of constant motion or movement could cause the mechanical components of the awning to be weakened. There will be very little chance that it would live up to the warranties. You can purchase wind bracing things, but here again the land makes it such that it did not in many ways seem practical in terms of the skeletal framework of the metal. The canvas fabric with Minnesota winters that is really not usable in the winter and it also requires going out there to crank it out. In terms of how we think we are going to use something in our home often times does not turn out that way. So I see this as a less long term solution as part of this whole idea of retaining and getting back to some cooling for the interior. Feel like I did due-diligence in researching this. The angle of the sun is such that an awning does not address how a roof structure can provide more cooling for that middle section as well as parts of the other two sections.

Christenson asked have you had a mechanical engineer come out and give you an opinion as to if adding a roof to your house will add cooling.

Lueth replied no. We discussed the cooling effect of an awning with the builder versus a roof.

Grob expressed that wanting to lessen the heat effect is valid. Having lost all the trees and the significance of trees, but am not sure that what you are asking to do is going to significantly reduce the heat load. Thought about the awning thing and after the wind we had on Thursday night, an awning would not survive that. The other thought I had was that our ordinance does not appreciate building lakeward. One reason is the visibility from the lake and the other reason is lake protection. What you are proposing probably would be insignificant in terms of view from the lake and the thing that is probably most impressive when I was there was what you have done everything to prevent runoff with the shore buffer zone that you have built. This is a reasonable request and would have zero impact on the lake from runoff.

Van Kempen was not sure that adding this roof line is going to actually get you any more cooling in your home, but think your request is reasonable.

Krueger agreed that this is a reasonable request with the loss of all the trees.

Lueth commented that a couple of south trees are still there and have also planted a row of lilac bushes to help with the cooling factor.

Johnson opened the discussion to public comment.

No public comment given.

Johnson closed public comment.

Grob made a motion to approve the variance as presented and adopt the answers to question #4 – 6 in 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 minor expansion of the patio and will not have an effect visually with no impact on the lake.

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

Yes (X) No ()

Why or why not? The sun and heat load make it very difficult to enjoy use of the property on that side of the house. This would improve this situation.

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

Yes (X) No ()

Why or why not? The house is placed in its location and there is really no alternative to address this situation except with the planned proposal.

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 claimed by the applicant is the loss of trees around the cabin due to a recent storm event that toppled the trees. The landowner did not cause these trees to be blown over by the wind.

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

Yes (X) No ()

Why or why not? The locality's character consists of single family seasonal and year-round homes. The desired roof expansion would not be significant enough to harm the locality's character.

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

Yes (X) No ()

Why or why not? The alleged difficulty is the landowner's loss of several mature trees that previously shaded the cabin. Economics were not cited as a difficulty in the application.

Motion carried unanimously 5 – 0.

Variance Application 26-V-15 by John Masek: Part of Government Lot 4, Section 6, Township 141, Range 33, Mantrap Township on Big Mantrap Lake, a Recreational Development Lake. Parcel 20.06.02400. Applicant is requesting a variance from Section 502.2 of the Shoreland Management Ordinance for a proposed accessory structure that will not comply with the 10' side and 10' rear lot line setbacks.

Buitenwerf commented that this has been tabled indefinitely until Masek can potentially obtain additional property to the rear of his lot which would enable him to pull the structure further from the utility line and thereby allowing him to comply with the 15' setback the Cooperative would allow from the power line.

Variance Application 27-V-15 by Jonathan and Tara Rogness: Lot 2, Block 1, Piney Grove, Section 28, Township 143, Range 32, Lakeport Township on Kabekona Lake, a Recreational Development Lake. Parcels 19.49.00200 and 19.49.01010. Applicants are requesting a variance from Sections 901.2 and 902.4 of the Shoreland Management Ordinance for a proposed shoreline recreation use area that will exceed the 15' allowed depth and involve alteration of a permanent ice ridge.

Jesse Morris of AccuBuilt Construction representing Jonathan and Tara Rogness reviewed the variance request as an addition to the previous variance which approved a boardwalk and a 15' X 20' area to modify the ice ridge which did not cover the full depth of the ice ridge. This is a modification of that variance request. We would like to modify the ice ridge back the full 18 feet; narrowing it down to a minimum to allow the boardwalk through the ice ridge and raising the level that we asked for before to preserve more of the ice ridge.

Johnson commented that the exact cut at the bottom is going to be four feet - would that be a four foot wide wood going over that.

Morris replied yes.

Johnson asked if this would connect to a dock or stairs.

Morris explained that this would connect to a dock and the highest point of the boardwalk would be at the back of the ridge and the lowest point would be at the dock.

Grob asked if the dock would butt up against that point that is 20 inches above cut.

Van Kempen explained that this has been reviewed a couple of months ago and this alteration seems reasonable.

Grob commented that part of the proposal is that we would terminate the previous variance.

Morris stated that as long as it does not affect the boardwalk, really the previous variance did not touch the ice ridge so if you could negate the previous ice ridge portion of the variance request and go with this proposal in its place.

Johnson opened the discussion to public comment.

No public comment given.

Johnson closed public comment.

Grob made a motion to approve the variance application with the condition that if this variance is acted upon, the ice ridge cut allowed in Variance 8-V-15 cannot be acted upon. Only one of these two ice ridge cut variances can be acted upon.

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 proposed variance ice ridge cut is less and less earth disturbed than the original variance request.

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

Yes (X) No ()

Why or why not? A gradual approach and access to the lake is reasonable.

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

Yes (X) No ()

Why or why not? The extended low area between the ice ridge and the main land which is approximately 300 feet makes the ice ridge more restrictive when you get to the lake.

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

Yes (X) No ()

Why or why not? The ice ridge was created by ice push over many years and not by the landowner. The shoreland ordinance requires a variance for any alteration of a permanent ice ridge – which is also a provision not created by the landowner.

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

Yes (X) No ()

Why or why not? Other lots along this side of the lake have cuts through the ice ridge to facilitate lake access. The proposed cut will average 6' in width, be vegetated after creation, and ought not to harm the locality's residential character made up of seasonal and year-round single family homes.

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

Yes (X) No ()

Why or why not? A user friendly lake access and economics were not cited in the application.

Motion carried unanimously 5 – 0.

Planning Commission:

Approval of Minutes: No agenda at June 22, 2015 meeting.

Old Business: None

New Business: None

Miscellaneous:

Buitenwerf reviewed that there are approximately 10 applications for the August Board of Adjustment meeting.

Communications:

Buitenwerf commented that a new staff member will be joining our office.

Adjournment.

Christenson made a motion to adjourn the meeting.

Van Kempen seconded the motion.

The motion carried unanimously 5 – 0.

Meeting adjourned 7:19 p.m.

Respectfully submitted,

Barbara Barth
Recording Secretary