

HUBBARD COUNTY

Planning Commission/Board of Adjustment meeting minutes

6:00 p.m. on Tuesday, May 26, 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: April 27, 2015 meeting

Grob made a motion to approve the April 27, 2015 minutes as presented.

Krueger seconded the motion.

The motion carried unanimously 5 – 0.

Old Business: None

New Business: None

Board of Adjustment:

Approval of Minutes: April 27, 2015 meeting.

Christenson made a motion to approve the April 27, 2015 minutes as presented.

Grob seconded the motion.

The motion carried unanimously 5 – 0.

Old Business: None

New Business:

Variance Application 12-V-15 by Michael and Rebecca Wheeler: Lot 6, Duck Lake Addition, Section 31, Township 139, Range 33, Crow Wing Township on Duck Lake, a Recreational Development Lake. Parcel 06.38.00600. Applicants are requesting a variance from Section 902 of the Shoreland Management Ordinance (SMO) to move more than the permissible volume of material in the shore impact zone (SIZ) to replace a retaining wall.

Rebecca Wheeler presented a summary of the application request. They would like to replace a retaining wall that was built in the 1950s, the wall is disintegrating and the land behind it is eroding into the lake area. In order to repair this, we will need more than 10 cubic yards of dirt.

Christenson asked if any thought had been put into not repairing the wall, but sloping this and putting vegetation in.

Wheeler replied that they had thought of putting vegetation in, but there are three trees right along there and sloping would wash away the root system that keeps the trees anchored.

Christenson questioned why if you put vegetation there how would the root system erode?

Wheeler commented that the area slopes significantly so to slope this with vegetation would expose the roots to these trees.

Johnson opened discussion for public comment.

No public comment given.

Grob explained that it would be very desirable if they could make this slope natural, but it seems like replacing the wall makes sense; however, in that context we should try to do something to prevent the water from running directly down your lawn past the wall, which may be part of why the wall collapses. If possible build the wall 6" minimum above the ground behind it to build a swale that the water can run off to the left into the heavy growth of vegetation. He would suggest this be approved with this condition.

Van Kempen suggested that by having the runoff flow back away from the wall to either side, it would help keep the wall intact and avoid so much runoff to the lake.

Grob made a motion to approve Variance Application 12-V-15 with the condition that the new retaining wall be a minimum of 6 inches above the yard behind it and a drainage swale be created on each end of the retaining wall to direct stormwater from each side of the wall's steps into existing vegetation near the shore and accept the staff 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 (X) No ()

Why or why not? The retaining wall appears to predate the shoreland ordinance enactment date. Given the modified condition of the natural slope, it is important that the retaining wall be repaired/replaced so that it can continue to hold back the land behind it and prevent soil from eroding into the lake. The environmental impact of the wall is relatively minor. Its aesthetic impact when viewed from the water due to a lack of vegetation in front of it and its proximity to the shoreline are the primary issues.

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

Yes (X) No ()

Why or why not? Even if the retaining wall was not going to be replaced and instead the previously existing natural grade/slope to the lake was reestablished, the volume of material needing to be moved would require a variance. Replacing the wall so it is safe given its current damaged condition is a reasonable use of the property.

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

Yes (X) No ()

Why or why not? The retaining wall is located a few feet from the shoreline in the shore impact zone. It is large enough that the volume of material involved in replacing it exceeds the amount allowed to be moved by permit. The wall appears to have been constructed prior to enactment of the shoreland ordinance based on the style and type of construction materials used.

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 retaining wall was constructed by a previous owner apparently before the ordinance was enacted – based on the style and type of construction. Its size and location in the shore impact zone create the difficulty by the project requiring an amount of material to be moved that exceeds what the ordinance allows by permit.

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. Retaining walls are a common accessory feature on residential riparian lots. Thus, the proposed residential structure will not harm the locality's essential residential character.

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

Yes (X) No ()

Why or why not? The difficulty is caused by the retaining wall predating the shoreland ordinance and being located in the shore impact zone such that a variance is required to move the amount of material needed to replace the wall. Economics were not cited as a difficulty in the application.

Motion carried unanimously 5 – 0.

Variance Application 13-V-15 by Holly Finch: Lots 13-17, Block 3, Balsam Beach. Section 6, Township 145, Range 33, Helga Township on Plantaganet Lake, a Recreational Development Lake. Parcel 11.37.01800. Applicants are requesting a variance from Section 506 of the Shoreland Management Ordinance (SMO) to make a nonconforming primary residential dwelling into a guest cottage. The structure does not comply with the required 100' ordinary high water mark (OHW) setback or the 700 square foot maximum footprint in order to have a guest cottage.

Holly Finch reviewed that the 1930s cabin be designated as a storage building rather than a dwelling to reflect its actual usage. The building has no water or septic and is used only for storage. We are requesting a variance for the 1960s cabin due to the setback and square footage, which does not conform to the current shoreland rules. We feel the setback should be grandfathered in as the building was built before there was a setback and moving the existing building to another location because of the topography of the lot and the existing well is really not a viable option. We are asking that since the square footage is only 18 square feet over the maximum of 700 square feet, that this is allowed to be a guest cottage. We would like to build a new log home and make this our primary residence year-round and would like to keep this guest cottage.

Grob asked how many bedrooms are in this guest cabin.

Finch responded that there is one bedroom and also added that it is understood that there is an issue with septic in that these would need to be joined. We have consulted with Dave Larson, our septic designer, who assured me that this would not be a difficult thing to accomplish and made a suggestion of adding a pump to the existing system to pump to the new septic system. The new system would be large enough for a 4 bedroom home rather than a three which would make it compliant.

Grob explained that the ordinance is pretty explicit that a nonconforming structure less than 100 feet from the lake cannot be converted to a guest cottage. It does not matter if it is grandfathered or built in 1960.

Christenson explained that when they were out on the lot, there seemed to be ample room other than cutting down a few trees, that this cabin could be picked up and moved to meet setback making it in compliance allowing you to move forward with your permanent dwelling.

Finch responded that the issue with moving that cabin 15 feet back is that it would be placed over the existing well.

Christenson commented that if you moved it over to the north, that would also clear the view for the new home.

Finch explained this location would place the cabin directly in front of where we propose the log home.

Christenson mentioned that part of your new log home is placed right in front of where the cabin is now.

Finch responded that the garage of the new log home is what would sit behind this guest cabin.

Christenson explained that if you were to pick this cabin up and put it over by the 1993 garage, you could become compliant with the setback. Also if you took off the extra 18 feet, you would be compliant with the ordinance.

Grob noted that this would negate the septic system for this cabin.

Van Kempen suggested that you could move it 15 feet toward the existing septic because that tank can be 10 feet from the cabin.

Krueger commented that after looking at the lot, it would make sense to move it over to the north closer to the 1930 cabin. If you could meet the 100 foot setback, we could be more inclined to allow the extra space. In the new location, the current septic could still be used by running a line.

Van Kempen questioned if the 1930s cabin was on a separate lot at one time.

Finch responded that it was at one time.

Van Kempen stated that this was going to be a tough one to approve since there is space to move this cabin that would meet setback.

Finch asked if they agreed to move that cabin 15 feet back and 7 feet over to the north, then you may be inclined to approve the variance.

Johnson mentioned that if he were to move this cabin at all, it would make sense to move it closer to the 1930s cabin.

Finch remarked that they had considered moving the cabin closer to the 1930 cabin, but the way the shoreline runs would make it harder to meet the 100' setback. They would be willing to look into what it would take to move that cabin back the 15'.

Christenson questioned if the little porch was a sitting area and do you have a sitting area inside the cabin as well.

Finch stated that there is a small sitting area inside the cabin.

Johnson opened discussion for public comment.

No public comment given.

Van Kempen questioned the issue of a 1930s cabin used as a storage building, do we need to address this issue.

Buitenwerf commented that based on what has been stated as far as use on this cabin, we take Ms. Finch's word on that as documentation for use.

Christenson moved to deny the application as presented and adopt the staff report findings of fact.

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 small addition on the south side of the proposed guest cottage can be removed to bring the structure into compliance with the 700 sq. ft. footprint threshold

and the lot is nice and level such that the structure could easily be moved back to a conforming setback so that a variance would not be needed and the structure could instead be permitted. When a permissible option exists, granting a variance would not be in harmony with the intent of the ordinance.

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

Yes () No (X)

Why or why not? No. As mentioned in the answer to question 1, a permissible solution exists whereby the requested guest cottage could be allowed. Even if the structure is not moved, it currently serves as the primary residence on the lot such that the landowner has that use of the property in addition to the ability to use the property recreationally to enjoy the outdoors and access the lake recreationally and for fishing.

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

Yes () No (X)

Why or why not? The lot is 2.4 acres in size and 293' wide. The rear (non-lakeside) 2/3 of the lot is relatively level such that the proposed guest cottage could be relocated to a conforming location and reduced in size so that it could be allowed by permit. Thus, there is no difficulty caused by any unique features of the property.

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

Yes () No (X)

Why or why not? As mentioned in the above answers, the difficulty is caused by the owner's desire to have two residences involving a guest cottage that does not meet the required OHW setback and exceeds the maximum 700 sq. ft. footprint allowed for such. A permissible solution exists for being able to have this structure function as a guest cottage with a few relatively simple adjustments.

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 that are spread out in the neighborhood at are low to moderate density. The proposed house and guest cottage on this lot would be the equivalent of the lot being divided in two (as it is close to the 300' in lot width needed to be able to create two lots from the current lot) so it would not increase the area's dwelling unit density in a negative way.

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. Sentimentality and the lot's "character" along with the proposed guest cottage having been built by another family member as the intended primary residence and now the current owner's desire to construct a new structure as the primary residence are the alleged difficulties.

Krueger seconded the motion that carried unanimously 5 - 0.

Van Kempen made a subsequent motion to grant a variance from the 700 square foot guest cottage maximum footprint and allow the 1960s cabin to be 18 sq. ft. over the 700 square foot footprint on the condition that the 1960s cabin be moved into compliance with the 100' ordinary high water mark setback.

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? Moving the 1960s cabin back to meet setback.

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

Yes (X) No ()

Why or why not? Yes, reasonable use of the property is to be able to use a cabin that has been there since the 1960s. The use as a guest cabin moving it to setback is reasonable.

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

Yes (X) No ()

Why or why not? Yes, the cabin was placed there before the Ordinance went into effect.

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

Yes (X) No ()

Why or why not? Yes, because the cabin in question was built prior to the Ordinance and prior to them owning the property.

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 that are spread out in the neighborhood at are low to moderate density. The proposed house and guest cottage on this lot would be the equivalent of the lot being divided in two (as it is close to the 300' in lot width needed to be able to create two lots from the current lot) so it would not increase the area's dwelling unit density in a negative way.

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. Sentimentality and the lot's "character" along with the proposed guest cottage having been built by another family member as the intended primary residence and now the current owner's desire to construct a new structure as the primary residence are the alleged difficulties.

Motion carried unanimously 5 – 0.

Variance Application 14-V-15 by Eli Martin: Part of Government Lot 2, Section 22, Township 141, Range 34, Lake Emma Township on Big Sand Lake a Recreational Development Lake. Parcel 16.22.00320. Applicant is requesting a variance from Section 902 of the Shoreland Management Ordinance (SMO) to move earthen material in the bluff impact zone (BIZ).

Eli Martin explained that when this property was purchased, it had a nonconforming structure on it which has been removed and now he would like to remove footings and grade it back to original elevation. Looking for a variance to remove about 43 to 45 yards of material.

Krueger commented that there is no problem with granting this variance.

Christenson asked about what had been done with the septic.

Martin explained the septic was stubbed into the footing and it was terminated outside of the footing and had capped it just beyond the cleanout for connection at a later date. There is a septic compliance inspection on file.

Grob asked if there was sufficient material around the footings to be able to recreate the approximate topography or if there is not enough - what are your thoughts about what kind of material you might put in there? Also what are your thoughts in terms of fairly quickly re-vegetating it so that it does not create any runoff or erosion?

Martin commented that he believes there is enough material and would like to see a small swale in the area to prevent runoff straight down the bank. It is sandy so it will drain naturally and once it is graded, there will be black dirt added and seeded immediately with grass.

Johnson opened discussion for public comment.

No public comment given.

Krueger made a motion to approve the application as presented 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 (X) No ()

Why or why not? The request is actually to restore the top of the bluff impact zone to its original condition before the structure that once sat in the area in question was constructed. This is a "win-win" for the landowner, County, bluff, and lake.

2. Without the variance, is the owner deprived of a reasonable use of the property? Yes (X) No ()

Why or why not? There is a large hole that runs the width of the lot behind the bluff crest making it difficult and unsafe to traverse the lot from front to rear. Being able to fill in this hole to improve safety, protect the bluff from erosion, and improve the landowners' ability to move about their property are all reasonable uses.

3. Is the stated practical difficulty due to circumstances unique to this property? Yes (X) No ()

Why or why not? The previous residence that occupied the site of the current hole was constructed before the ordinance's bluff impact zone language was first implemented. The hole is quite large as it was created by the excavation for said residence's basement. The current ordinance requires a variance to move any material in a bluff impact zone. These items together create the unique situation on the property.

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

Yes (X) No ()

Why or why not? The difficulty is caused by the hole having been created by a previous owner when the area was excavated to create a basement for a residential structure that used to sit on this location. The structure was built by permit at a time before the ordinance's bluff impact zone language was adopted. The ordinance amendment on February 25th of this year requires a variance for any earth movement in the bluff impact zone.

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. Filling in this hole, removing the footings, and restoring vegetation on the site will bring this lot more in line with the locality's character than the current situation with the footings and hole visible.

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

Yes (X) No ()

Why or why not? The difficulty is caused by the structure that used to occupy this site having been built in the bluff impact zone prior to the existence of the bluff impact zone regulations in the ordinance in combination with the current ordinance's requirement that a variance be obtained for any earth movement in a bluff impact zone. Economics were not cited as a difficulty in the application.

Motion carried unanimously 5 – 0.

Variance Application 15-V-15 by Steve and Joann Schauer: Lot 3, Duck Lake Addition, Section 31, Township 139, Range 33, Crow Wing Lake Township on Duck Lake, a Recreational Development Lake. Parcel 06.38.00300. Applicants are requesting a variance from Section 702 of the Shoreland Management Ordinance (SMO) for a proposed addition to a nonconforming residential structure located in the shore impact zone (SIZ).

Steve Schauer reviewed that they are requesting to put a handicap ramp on to the rear of the cabin.

Grob commented that the request is reasonable since it is not a large increase and it is on the back side of the building. This will not cause runoff or impacts to the lake at all. The difficult part of it is that the cabin is only 38' from the lake and a possible condition would be that no future expansions would be allowed since it is so close to the lake.

Krueger asked if the same roof line would be maintained.

Schauer replied yes.

Krueger asked if the conditions of the variance were 1. No further enlargement of the structure is allowed, and 2. A vegetative planting of appropriate composition and size be installed to offset the additional impervious surface area in the shore impact zone that the addition will create.

Schauer asked what that would entail.

Johnson explained that if your variance was granted to what you are proposing, there would be a restriction that you would no longer be able to enlarge the cabin.

Grob commented that it would be desirable to do some kind of vegetative buffering, but during the site visit, my view is there is not much you can do.

Krueger commented that it could be to one side of the lot.

Grob explained that with such sandy soil, it would be difficult to get anything to grow there.

Johnson opened discussion for public comment.

No public comment given.

Van Kempen commented that this looks to be pretty well thought out and it will be attached to the existing roofline, there is a need to accommodate a handicap need. The additional square footage is minimal.

Christenson made a motion to approve the variance with the condition 1. No further enlargement of the structure is allowed, and 2. A vegetative planting of appropriate composition and size be installed to offset the additional impervious surface area in the shore impact zone that the addition will create and accept the staff findings of fact with the answer to question 2 as yes.

Van Kempen seconded the motion.

Buitenwerf requested that it would be helpful for us as well as the applicants to have the condition concerning vegetation area spelled out. The Board should define the second condition for the applicant as to the location, size and plantings.

Christenson stated that if your existing blocks where you have the garden right now were enlarged to come out to where the dead tree is, that would then include the runoff from the roof. You could start in the front and widen it out as you get to the back.

Van Kempen asked for dimensions.

Krueger stated that by definition this area would need to be equal to the dimensions of the addition per the ordinance.

Grob suggested that you take the existing stone or block and move it to the right side, then extend back to the current wall length or pick up the whole wall and move it to the right. The blocks would prevent any runoff from the house.

Joann Schauer reviewed that the pavers would be moved from the existing building to extend out to the corner of the new building. It will be a pie-shaped garden area.

Christenson explained that it has to go beyond the corner.

Grob suggested you take the whole thing and move it to the right in a straight line or extend it outside the line with the house.

Johnson responded that on number two of the staff recommendation, that the size be installed to offset the impervious surface area.

Grob stated that the condition is to install a paver block wall equivalent of length to the existing one and that the paver wall has to be outside of the roof line on the existing house.

Christenson stated that instead of telling them where to go with it, could you just use the size in the definition.

Buitenwerf explained that it should be made clear if you want it in the impact zone or at the 100' setback. The intent is to offset the impervious area of the shore impact zone.

Christenson suggested that it is going to be equal to or greater than the size of the impervious surface on the back side of the house.

Grob wanted to know what you are trying to create. What you really want to do is prevent runoff. So if you state that the reinstall paver block wall will be equivalent to the length of the existing one and it has to be outside of the profile of the right side or north of the house.

Buitenwerf commented that we just need specific information so that we know and the Schnaurers know what type of vegetation do you want planted, how large of an area does it need to be, and what are the parameters as to where it is to be placed.

Grob explained that unless you can do something on the shore side of the building and with the type of soil we are dealing with, it becomes apparent that this condition is not needed.

Christenson amended the motion to approve the application on the condition that no further enlargement of the structure is allowed and adopt the staff report findings of fact, using the prepared "yes" answer for question # 2.

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 Shore land Management Rules? Yes (X) No ()

Why or why not? The proposed 16' x 18' addition is reasonable in size relative to the size of the existing cabin (~22' x 42') such that moving the structure back in order for it to be enlarged would not be reasonable. The additional impervious surface area of the addition in the shore impact zone will be mitigated by the vegetative planting being placed as a condition on the variance.

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

Yes (X) No ()

Why or why not? Adding a handicap-accessible bathroom and entrance to the structure is a reasonable request to allow a wheelchair bound individual to access and live in the cabin.

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

Yes (X) No ()

Why or why not? The structure was constructed at a nonconforming ordinary high water mark setback in the shore impact zone prior to enactment of the shore land ordinance.

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

Yes (X) No ()

Why or why not? The structure was built by a previous owner at a nonconforming ordinary high water mark setback in the shore impact zone prior to the shore land ordinance taking effect. The ordinance requires a variance for any addition to a structure located in the SIZ.

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. This addition to the rear (non-lakeside) of the cabin is 16' x 18' in size and will be the same height as the existing cabin so it ought not to harm the locality's residential character.

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

Yes (X) No ()

Why or why not? The difficulty is caused by the structure having been built prior to enactment of the shore land ordinance at a nonconforming setback located in the shore impact zone. Economics were not cited as a difficulty in the application.

Motion carried unanimously 5 – 0.

Variance Application 16-V-15 by Steven and Amy Hankey: Lot 3, Block 1, Hazel Park, Section 9, Township 140, Range 33, Nevis Township on Lake Belletaine, a Recreational Development Lake. Parcel 21.57.00300. Applicants are requesting a variance from Section 702 of the Shoreland Management Ordinance (SMO) for a proposed addition to a nonconforming residential structure located in the shore impact zone (SIZ).

Steve Hankey explained that they currently have a simple cabin and would like to retire in a few years. They would like to convert the cabin into a retirement home with all the space in the new home on one level. Our practical difficulty is that the cabin was built in 1952 as part of a resort and the resort owner lived in the cabin that was built on the far east side of the lot. We are about 30 to 35 feet away from the neighbor on the east and then between the property line and the existing cabin, there is a septic in there so it kind of leaves us having to go to the west and slightly back. If we build to the west, we still have a little over 100 feet to that property line. Currently the cabin is a reasonable set up for a cabin, but our goal is to get it set up for a normal living type home. Right now it is about 1,000 square feet with two small bedrooms, a bathroom and an "L" shaped room that functions as living and kitchen area. We would like to have a workable kitchen

with a larger living area and a second bathroom. It is a modest addition that would go to the west and back. The goal again would be to try to have the living area on one floor and this is the first time that we would be asking for an addition on this structure. There will be no basement space, only a crawlspace which will limit excavation.

Grob commented that during the site visit, it was noted that there is a walkout from your existing cabin. Are you planning to do something in the front of the cabin?

Hankey replied no.

Grob stated that in looking at the drawing, the front deck seemed bigger than what was actually there. What is the actual square footage of the addition?

Hankey replied that it is slightly under 800 square feet.

Christenson explained that when they were out there, this is a lovely lot and it does require some imagination to know how to make an addition. Personally cannot explain to someone how this variance could be granted at only 21 feet from the lake. Have you considered adding to the back side instead of the side of this structure?

Hankey responded the house was placed in the location a long time ago and building on the back did not seem feasible.

Mark Spitzack, the Hankeys' agent, reasoned that building back into the hillside would not be his recommendation due to the water coming down the hill. The other issue is how to access the house coming down from the garage. With the higher elevation, we would have to do something with the roof line to find some way to tie that in to the existing. The addition, as was proposed, was to try to minimize the overall impact visually to the property. Wanting to keep this more of a one level type house, currently there is a drive that goes around.

Hankey stated that if you did go back, you would still have the area to collect the water to keep from going into the house.

Christenson commented that the water issue is not the main concern, but the fact that this structure is 21' from the lake. Looking at this from a County standpoint, it is to protect the waters, not how the house is designed.

Spitzack expressed that the house was placed there a long time ago and we are trying to find a good way to add on to this building while maintaining all of those aspects. Our best intent was to do all these things and compromise on space and make this as small as we could because we knew it was going to be a tough road. One of the things that may help would be a stormwater management plan.

Christenson asked if the ordinary high water mark was determined on this property.

Ann Hankey mentioned that it does not fluctuate like it does on other lakes. This water is at its highest right now.

Grob asked how high it got in 2000 when the lakes were at a high level.

Ann Hankey explained that the rock in the photo had markings on it as to the highest level.

Steven Hankey commented that you can also see where the tree stumps are and they were lost in the last high level.

Christenson asked where on the drawing the 21 feet was figured from.

Spitzack remarked that the measurement was taken from the existing house at the same elevation to the big rock in the front since that rock had some water markings.

Christenson believes that the OHW mark is to where the tree stumps are which would make it less than 21 feet.

Johnson asked about the addition square footage.

Hankey explained that the addition is just a little less than 800 square feet.

Krueger commented that he researched the cabins around this one and found that they run from 600 square feet to 1000 square feet.

Christenson commented that she does not have a problem with increasing the size of the cabin by 800 square feet; it is where it is being put on is the struggle. Setback is 100 feet so to grant a variance that is even closer than 21 feet probably is not justifiable.

Hankey commented that there are no other options.

Krueger explained that this is a large lot with lots of trees, there seems to be plenty of room to build your house.

Johnson commented that there is a master bedroom, a bunk room and a family room. Reviewed the floor plan for the addition. Application says existing three bedrooms, but septic was sized for a two bedroom home.

Spitzack asked if there was something they could do such as a stormwater management plan that would help get this.

Krueger asked if they could come up with a plan moving this back farther.

Grob mentioned that if they add on to the back of this structure, it will still be in the shore impact zone.

Hankey stated that the intent of the design was to pull it back as much as possible.

Johnson commented that the design is great, but have to agree that the design is the most cost efficient, but it is too close to the lake.

Johnson opened discussion for public comment.

No public comment given.

A discussion was held on whether to table this variance and give them a chance to present another or better option. No motion was made.

Grob made a motion to deny the application.

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 () No (X)

Why or why not? The 80% expansion 20 feet from the lake in the shore impact zone is contrary to good shoreland management good practices.

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

Yes () No (X)

Why or why not? There currently is a ~1000 sq. ft. residence on the lot with a walk-out basement and a detached two stall garage. The lot can be used to access the lake and enjoy the outdoors. All of these listed items are reasonable uses. There is also room in the rear half of the lot to build a new residence of the desired size in a location that meets all setbacks.

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

Yes (X) No ()

Why or why not? The cabin was built prior to enactment of the shoreland ordinance at a nonconforming OHW setback in the shore impact zone and on a steep slope. The slope runs ~175' landward from the OHW.

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

Yes (Y) No ()

Why or why not? The cabin was built years ago as part of a resort.

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

Yes () No (X)

Why or why not? The cabin would be substantially larger than surrounding cabins.

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

Yes (X) No ()

Why or why not? Economics are not cited as a difficulty in the application. The alleged difficulty involves the existing cabin's having been built prior to enactment of the shoreland ordinance at a nonconforming OHW setback in the shore impact zone on a steep slope.

Motion carried unanimously 5 – 0.

Adjournment:

Christenson made a motion to adjourn.

Grob seconded the motion.

Motion carried unanimously 5 - 0.

Meeting adjourned.

Respectfully submitted,

Barbara Barth
Recording Secretary