

LAKE COUNTY BOARD of ADJUSTMENT
December 13, 2006
Meeting Minutes

MEMBERS PRESENT: Lucille Buchmann, Jack Meuli, James McKee, Clarence Brazil, Sue Laverty

STAFF PRESENT: Sue Shannon, Alex Hogle, Joel Nelson, Lita Fonda

Lucille Buchmann called the meeting to order at 4:03 pm

Motion by James McKee, and seconded by Jack Meuli, to approve the November meeting minutes. Vote unanimous to approve the minutes.

HOYT DENSITY VARIANCE

Alex Hogle presented the staff report. Since the report was distributed, a letter of permission was received from the owner to the west of the property, and one objection was received.

Lucille confirmed with Alex that a guesthouse can't be rented. Clarence asked about zoning. Alex clarified that it's in a density area, and no rental is a condition. Sue L asked if this was transferable with property transfer. Sue S explained that there would be a deed restriction on the property.

Jill Todd of Rowland Environmental spoke on behalf of the Hoyts. They have done DEQ work. It's a COS with 1 building, so needs DEQ. They've examined septic impacts, and determined non-significance. There's no impact on wells. The current wells are adequate. DEQ is waiting for this process to conclude prior to issuance.

Lucille checked for other public comment. Finding none, public comment was closed.

Clarence and James saw nothing wrong with this. Sue L agreed, as long as it wasn't rented.

Motion by Jack Meuli, and seconded by James McKee, to approve the variance with staff recommendations. Motion carried, all in favor.

EDWARDS DENSITY VARIANCE

Alex presented the staff report. One comment has been received in support of the variance from an adjacent landowner, since the staff report was prepared.

Dwayne Edwards, the applicants' sons, was in attendance on behalf of the applicants. He had no additional comments.

Lucille checked for other public comment. Finding none, public comment was closed.

Motion by James McKee, and seconded by Jack Meuli, to approve the variance with staff recommendations. Motion carried, all in favor.

ROEHRDANZ CONDITIONAL USE—EAST SHORE

Alex presented the staff report. Since the report was written, comments have been received from the Bigfork Fire Department addressing the items mentioned in #10 on pg. 4. These were provided to the Board.

Frank Becker spoke on behalf of the applicants. He is the architect for the owners. Regarding the buildable area, it's a 15-acre parcel, and lots of other areas are within the 25% grade. He believes they're less than 29%, but if need be, they'll address that and look at 29 to 49% for the conditional use for the main residence. For #8 of the analysis, with the septic permit and the 6 bedrooms, the intent of the homeowner is to not have the primary residence at 6 bedrooms. They'll go in for a rewrite for that septic permit and use the drain field that has been built. There would be 1 bedroom in the guest and 4 in the main to make sure they are within the criteria of what's been built for the drain field and septic tank. For #11, there have been catch basins built and already in place to catch the runoff from the road. He described a culvert going through the road and riprap on the property. The homeowner intends to retain and diffuse all the storm water sufficiently, with the 15 acres. On #14, there is a good area for a turnaround. Nat O'Farrell from Bigfork Fire Dept said to cut into the hill more to create that. Through the process of building, that area will be expanded. Does it have to be 80' by 80'? They'd like to expand it, but they don't want to create a parking lot. They are planning on doing the hazard reduction. With #14c, as with #11, the catch basin is already there. There's a metal grate over it, and a culvert into the road. There will be contouring around the guesthouse and the future home to make sure that is all taken care of.

James asked if there was any problem with condition #4 as written, for the turnaround area, which specifies approval by the Bigfork Rural Fire District. Frank responded that he was concerned about the 80' x 80'. James thought the Board members would not be willing to tell the Fire Dept what they can and can't have. He liked that the condition required the Fire Dept approval. Frank didn't know how things had gone recently, with the homes in the area that were steeper and with no turnaround. Is backing up for an eighth of a mile something that the Fire Dept can't do? He'd like to know for future sites and jobs as well. The owners here would like to expand the area in question, but not to the full 80' x 80', if they can, and use a multiple-point turn or backing up to the Sunset Road. He added that the Fire Dept mentioned minimum water. The homeowner plans to put in a 500-gallon storage water tank to help mitigate that.

Alex though dialog would need to continue between Frank, the owner, the Planning Dept and the Fire Dept. There have been other recent examples in the US news where wildland fires have claimed lives of firefighters trapped in vehicles. This proposal occurs in an area that is very fire-prone. Maybe there's an opportunity to make a few locations that would be small as opposed to one huge place. You don't see one fire truck go to a fire by itself. There are a few vehicles.

Sue L asked about the impervious coverage. If the Board approves of this, is the owner willing to modify the house plans to fit in with the less than 49%? Frank replied that they are confident with the 15 acres that there's other buildable areas less than 25% grade, to be included in the calculation.

Lucille check for other public comment. Finding none, public comment was closed.

Lucille agreed that the Fire Dept has to approve of it before the applicant starts. Jack thought they could negotiate about the turn, to come up with something doable. He agreed this needed to be done first, and could be done without digging the hill out.

Motion by James McKee to approve the conditional use with staff recommendations. Jack asked if this included #14 from the analysis. James explained that he thought this was adequately addressed in conditions #3, #4 and #5. **Seconded by Jack Meuli. Motion carried, all in favor.**

LA MUNYON SETBACKS & LOT COVERAGE VARIANCE—UPPER WEST SHORE

Joel Nelson presented the staff report. On pg.7, James verified that the staff report was intended to say 49% rather than 40%, near the middle of the page.

Sue L asked about the discrepancy between high water mark. Joel explained that it's opposed to taking a perpendicular line and measuring out and finding each point. The diagram on pg. 6 illustrates how this was done. James asked if the method varied with the surveyor. Joel said it's based on the software used. He described the method further. Sue L said that in actuality, it's 38' then. They talked about the diagram. James noted that with regards to the 50-foot setback, they're actually improving the situation with the new plan. He asked if anything other than the setback lent to the non-conforming status of the existing structures. Joel said there's also the impervious surface coverage.

Marc Carstens spoke on behalf of the applicant. He talked about the difference in the 50' setback. The issue is not to determine where the high water was. They were in accordance with that. Joel's chosen method meant that every line has a line drawn perpendicular and set back 50'. Marc had proposed a different method in a meeting with the planners. It was a consensus that he thought he had, and did not. He apologized for the misunderstanding. On item #3 on pg. 9, he asked Joel where the number of 2657.39 came from. Joel said that it came from the submitted materials. Marc did not recognize pg. 13. He agreed with the concept, that the impervious surface area not be increased. To that end, he requested that #3 be revisited to read that it not be increased in that prior to any construction, impervious surface area is measured by a registered surveyor or someone with the necessary tools and skills to calculate that. Marc explained that his planner, Lynn Speckert, had an emergency. They agree that the impervious surface area should not be increased. As to the exact square footage, out to 1/100 of a foot, he wondered where that came from, and Lynn might know. Joel thought Lynn had provided the calculations. He agreed with Marc that the intent is to limit it to what is existing. James asked if condition #3 was rewritten so it wouldn't be increased, rather than a specific number, that Marc would be okay with that. Joel reminded the suggestion included that a licensed professional surveyor shall provide calculations on the measurements and Sue reiterated that this would be prior to issuance of the permit.

Lucille checked for further public comment. Finding none, public comment was closed.

Lucille pointed out that less than ½ acre is not much land. She thought it was well for them to stick to what the impervious surface is now.

Motion by Clarence Brazil, and seconded by James McKee, to approve the variance with staff recommendations with staff condition #3 as amended. Motion carried, all in favor.

CORNING SETBACK VARIANCE—FINLEY POINT

Alex presented the staff report. In response to James' question, Sue explained that staff typically don't give a staff recommendation on a variance. Alex added that since the density regulations are new, recommendations were included on those.

Clarence asked if the difference here was 37' from the drivable surface, but actually 27' from the boundary. Alex said that we are estimating 27' from the boundary of the right of way. The true location is difficult to determine from our standpoint. That's why an accurate site plan was required. He pointed out the site plan that the applicant provided in the staff report. Clarence asked if they would be required to survey to find the boundaries. Alex said if surveying is necessary, then yes. Jack Meuli verified with Alex that the applicant does this rather than the County. Clarence mentioned there are lots of places on Finley Point that don't have right of way. Alex said there is right of way in this case. Clarence detailed that in some places, if the owner owns both sides of the road, they also own the road. Sue explained that they checked, and found a 40' wide easement.

Ralph Lasche spoke on behalf of the applicant. He reiterated Clarence's comment on right of way and ownership, that the road varies. They haven't established that the setback for the road doesn't actually come close to meeting it. They are just pulling off from where the road is. If a survey is required, they can certainly go that distance. It's possible that the road is where it is. He didn't think there was a legal easement. Don looked into that road. He didn't think he came up with something as far as that access to the other properties.

Alex said the provided information has a notation of "Corning easement". Ralph said it was Don who did that, in the field. Ralph thought it was proscribed rather than granted, like Finley Point Road. He thought the easement was the neighbor's rather than Corning's, who accesses from South Finley Point through their property. Sue explained there is an easement regarding that, too. It doesn't dedicate a certain width. It just says they have access across the existing roadway. Ralph said this structure has no effect on that.

Alex clarified that it's the County road right of way that should be more accurately depicted, relative to the footprint of this. Ralph asked if the property actually goes over the road, is it measured from the property line. Alex explained that they are addressing the setback from the road right of way, where it is now. Jack noted that there's a difference between an easement and a right of way. An easement means you've got the right to go through it. A right of way is different. Sue explained that this is an established right of way. The previous owners gave it to the County in something like 1950 or 1930. It is a 40' easement across the property. Ralph asked for clarification if Corning owned up over the property, does this easement start at the property or are you pulling from the road as it is now. Sue answered that you have to determine this by what the easement language is in the book. A surveyor could do this relatively easily. There isn't a way we know that Finley Point Road is built in the center of that easement, so then

it would be only 20' from the center. Something precise is needed, at least in that area, showing the right of way, where the property pins are and where the structure is in relation to them.

Sue L asked if the purpose for this is that it's too difficult for him to continue to haul his boat elsewhere for storage, but it's not too difficult to haul it to the property to store. Ralph affirmed. Clarence said that it's hauled to town to be winterized, then hauled home. Ralph affirmed, and added he could have it winterized on site now, so the distance for hauling would be significantly less. Sue L asked if he was not in a position then to hire someone to haul it and winterize it for him. Ralph said that he could probably afford to do that but he opts to have it on the property.

Lucille checked for further public comment. Receiving none, public comment was closed.

Clarence wasn't sure about hardship, and noted that the boundary line has to be established if 37' is going to be granted. James thought the right of way probably extends past the edge of the road. The Board could ask for an appropriate site plan prior to making a decision. Clarence agreed. Ralph asked where to measure from, if not from the center of the road. The applicant does own over on the other side. Alex explained that the edge of the right of way needs to be determined. This would be the external edge on the west side of that right of way. Ralph thought this meant that they'd measure from the center of the road. Alex explained that this was not necessarily the case. That assumes that the road is centered, and this is not known. This is why it needs to be determined appropriately. Ralph thought most of Finley Point wasn't where it was supposed to be. Alex agreed, and explained that this is why it's being requested to acquire an accurate site plan, so we can see where that road sits. Sue said that the regulations say 50' from the County road right of way. Without knowing where the County road right of way lies on this property, it's impossible to determine what the actual setback variance is, that the applicant is asking for.

Clarence asked if the applicant owned both sides of the road. Ralph thought the boundary was right around the road, just by some of the other surveys done to the north. Clarence said if he didn't own both sides of the road, then a surveyor could tell where his property line was, regulation to the road.

Motion by James McKee, and seconded by Sue Laverty, to table this request, and request that the applicant obtain an appropriate survey of where the right of way is, and where the proposed building site is going to be, so the Board knows exactly what's being done.

Jack asked if this was the main road. Several answered yes. It's a County road, Finley Point, the main road going in. Jack explained he wanted to know, with respect to how important it is for how far this shed does sit back from the road. Lucille asked if it was possible to move the shed farther back. Ralph replied they could gain a couple of feet. Immediately to the west side, it starts to slope off towards the lake. There's the possibility of filling in, and gaining 5 or 6' after that. You still need a buffer after the fill. Clarence suggested they could put a retaining wall in the back, and fill to the retaining wall. Lucille asked how the applicant would respond to tabling it for a month to get more information to the Board. Ralph wasn't sure.

Motion carried, all in favor.

REID/DICKSON VARIANCE & CONDITIONAL USE—FINLEY POINT

Joel presented the staff report.

Marjorie Dickson spoke in support of her application. Her mother, the majority property owner, and a brother were in attendance with her. Her siblings would like to remodel the guest home in the future. They're reading the regulations as limiting them to 1000 square feet maximum. They want assurance that they can remodel the guest home. Her mother is in the process of talking to them. The original house (which is going to be the guest house) is not safe anymore, and they want one that is similar in size. Jack asked if this was a correct interpretation. Sue explained that they'd have the option to come back to the Board to request a conditional use for a guesthouse of 1000 square feet, or to allow another single-family residence on the property. The property is large enough to accommodate 3 single-family residences.

Marjorie didn't see a problem with having the others sign affidavits that they agree with what she would like to do. Clarence inquired about the brother who is currently out of the country. Marjorie said that he would be back for Christmas. The brother in attendance said that they can contact him via email, and asked if an email confirmation would be satisfactory to the Board.

Sue clarified that for the request of extension, Marjorie has submitted the application, complied with the zoning, is an owner of interest on the property, and wanted the application reviewed. Staff felt they had the ability to address the concerns of the other interests in condition #3. Sue further explained that as a conditional use, they could have a guest house over 1000 square feet. Lucille checked that they could have another single family dwelling, with a variance. Sue said that they would have to come back to this Board, whatever they're going to do. Sue L asked if the Board was granting that they could have a guest house over 1000 square feet with this, or are we limiting to that specific square footage that's currently in use. Sue replied that we're limiting it. Changes to the footprint would mean review.

Motion by Jack Meuli, and seconded by James McKee, to approve the variance and conditional use with staff recommendations. Motion carried, all in favor.

ZIMMERMAN CONDITIONAL USE—FINLEY POINT

Alex presented the staff report.

Bryan Zimmerman spoke on behalf of his application. He asked about contacting someone to do the storm water management program. Alex explained there are people who provide this type of service, what kind of process they would employ to determine how much storm water the property might yield in a year, and design systems to build in mechanisms to dissipate that moisture into the ground.

Clarence referred to pg. 4 at the top, where it says the single building will have a clean and simple design, a neutral color, and that most trailers now stored along the fence line will be able to be stored indoors. He hoped this didn't mean a bunch more would be acquired to put along the fence, and that it did mean getting rid of the ones along the fence. Bryan responded that they'd like most of the boats to be inside. The current building used to be the old cooler for the cherry plant. There are 3 long bays. The boats are 5 or 6 deep, so to get the 6th boat out, 5 others

have to be moved. With the new building, everyone will have their own stall. When the boat's in the water, the trailer will go in the stall. Clarence clarified that if there are, say 20 outside, that if those 20 move inside, he hoped 20 more did not appear. Bryan indicated they only had room for so many boats, and a trailer goes with each boat. They only store the trailers for the people who leave the boats there.

Motion by Jack Meuli, and seconded by James McKee, to approve the conditional use with staff recommendations.

Alex understood the concern about trailers. As the report is written, it doesn't limit Bryan Zimmerman's ability to conduct business. It doesn't necessarily say don't increase revenue by being able to offer service. The report tries to emphasize that perhaps there can be some mitigation to visual impacts through vegetation along the fence, perhaps. He has existing use for what he does on his grounds. Clarence referred to the phrasing in the report about the trailers at the fence line. Alex said that it does say 'most'. Clarence checked about vegetation if more trailers are put outside. Alex said that vegetation is recommended, not required. Sue noted that it says it shall be outside property line setback or be visually shielded to reduce impact. Clarence commented that Bryan has a very visible place. You go down Finley Point Road and make a sharp turn, and have a panoramic view of his place. He's trying to mitigate that.

Motion carried, all in favor.

GERTGE CONDITIONAL USE—FINLEY POINT

Alex summarized the staff report.

James asked if it was the plan to remove the trailer after the house is built. The applicant confirmed. James double-checked that a condition exists to require removal of the trailer after the house is constructed.

Motion by Clarence Brazil, and seconded by Sue Laverty, to approve the conditional use with staff recommendations. Motion carried, all in favor.

Cheryl Gertge asked about contacting the County sanitarian. Sue thought that Cheryl already had a permit from them.

OTHER BUSINESS

Board elections can take place this month or next. The Board chose to do this next month.

Sue Laverty was introduced as a new member.

Motion by Clarence Brazil to adjourn. Lucille Buchmann adjourned the meeting at approximately 6:05 pm.