MINUTES OF THE CARLTON COUNTY BOARD
OF ADJUSTMENT MEETING
August 19, 2014

(1) Chairman Hill called the Board of Adjustment meeting to order at 7:00 p.m.

(2) Members Present: Tom Hill, Doug Suhonen, Jeff Vichorek, and Secretary Mike Torma.

(3) Motion by Vichorek, seconded by Hill, and supported by all yea votes to approve the May 20, 2014, Board of Adjustment meeting minutes.

(4) There was a resignation from the Board of Adjustment. Motion by Vichorek, seconded by Hill, and supported by all yea votes to elect Suhonen as Vice Chairman.

(5) Old business: None

(6) Chairman Hill called the Public Hearing to order at 7:02 p.m.

(7) Chairman Hill read that the legal ad was sent to the Star Gazette on August 1, 2014, and published in the Star Gazette on August 7, 2014.

(8) Chairman Hill read the *Finality of Decisions*.

(9) Chairman Hill read the *Findings of Fact to Grant a Variance* from Zoning Ordinance 27-F.

(10) a) **Variance Request #314006 – Norbert Wollak**
Norbert Wollak of 1245 Mingus Road, Cromwell, MN 55726 was present to speak on his own behalf. He has requested a variance to construct a nonconforming water oriented accessory structure on a nonconforming lot. The proposed WOAS is nonconforming as it will not meet the side yard setback. The lot is nonconforming as it does not meet the required lot width and lot area for a General Development Lake. The request is to consider a nonconforming lot buildable as long as all applicable setbacks are met. The property is described as Lot 5, Block 1 of Green Hills Addition in Section 34, Township 49 North, Range 20 West on Island Lake in the City of Cromwell (PID 17-090-0100). The property address is 1245 Mingus Road.

Wollak is proposing to build a 8 foot by 12 foot boat shed that will be 10 feet high on the east side of Upper Island Lake in Cromwell. The shed will be on the west side of the SW corner, 19 feet from the OHWL, and 2 feet from the boundary line on the south side. It will be back to back approximately 4 feet from a neighbor's shed.

Hill questioned and Wollak clarified that there is another shed on another property.

Wollak had a lot map with drawing and dimensions of other sheds. The members had a copy of the drawing in their packets.

Hill asked what the building will be used for.

Wollak said it is a boathouse for fishing gear. It is a storage type thing.

Wollak said if he goes in 10 feet , the building would be in the middle of the 50 foot lot. The side yard setback from north to south is the problem.

Suhonen asked Torma that there was a note on the application about no shoreland mitigation being required. He wondered who put that note there and if it was true. Zoning Office Manager Jody Meyer had made the shoreland mitigation note on the application.

Suhonen said that the Board has to justify the hardship for the variance request, and he asked for Wollak's opinion to define the hardship.

Wollak said the hardship is the width of the lot. He measured the neighbor's shed and found it is only 11" from his property line. He is proposing a 2 feet setback from the lot line for his WOAS. The lots are so narrow, only 50 feet wide from north to south, that meeting the setback would ruin the aesthetics of the place.

Zoning and Environmental Services Administrator Cunningham's video of the property was viewed.

Hill read Development Review 314006.

Hill asked if Wollak had any problems with conditions.

Wollak had no problems.

There were no other comments from the Board.

Hill asked if there were comments from the audience. No one spoke for or against the variance request.

Hill explained the process for tonight's Board of Adjustment meeting.

b) **Variance Request #314007 – Dennis and Michelle Schiltgen**

Dennis and Michelle Schiltgen of 1837 Graham Avenue, St. Paul, MN 55116 were present to speak in their own behalf. Their request is to construct an attached garage, two decks and an addition onto an existing nonconforming dwelling. The dwelling is nonconforming as it does not meet the required setback from a bluff. The applicants are requesting two years to start the proposed project. The request is for property described as Lot 3, Block 4 of Bayview on Little Hanging Horn Plat in Section 12, Township 46 North, Range 19 West on Little Hanging Horn Lake in Barnum Township (PID 39-045-0252, 0260). The property address is 3748 Bayview Drive.

In 1991, Schiltgen applied for a permit to build a log cabin. Their intention was to build an addition when they got closer to retirement. At that time, the ordinance for a bluff setback did not exist. When they went for a permit for the addition, they found out they had to meet current setbacks which was contrary to what they planned. They are requesting a variance to match the existing distance of a 15 feet setback rather than the 30 feet bluff setback required. The current building is on piers, and there is a 2 feet overhang. The piers have remained dry, and only one pier is exposed to moisture. No known movement of the building occurred during the northland flood. The weight of the logs in the existing structure makes it a heavy structure; a conventional building would be lighter. Without knowing the limitations of how to attach on to the existing structure, the plan is to build a conventional addition to square the current building off and add decks in front. According to the zoning director, the controversy is the stress on the bluff and the weight of the cabin. The deck on the front would be a lesser weight.

Hill asked if they were putting a deck on the bluff side.

D. Schiltgen said there is an existing 8 feet deck on the bluff side supported by piers.

Hill asked if the additions were going on both sides of the existing building.

D. Schiltgen said they were going on the back and the side of the building. In the original building plan, there was a deck on the west side. It was not built. The plans were conforming at one time

Suhonen asked how the new building will attach to the old, or what would be supporting the new building.

D. Schiltgen said they have not finalized the building plans, but their thought is to do piers on the side and the decks and the back would be a full basement.

Suhonen said the encroachment on the bluff is the issue.

D. Schiltgen added the rest of the issue is what constitutes stress on the bluff. He does not have that information and does not know if anyone else here has this information.

M. Schiltgen said they do not disagree with the 30 feet setback. That is not an option for them in Plan B. They have many revisions of their plan, but they put out the biggest one not knowing they needed the specific building plan for the Board to make a decision.

Suhonen said they would be talking about this more when they get to the conclusions and recommendations. He said there are question about the location of the drainfield in the commentary and the possibility of moving it. He asked if this were something they would consider.

D. Schiltgen said going north to northwest is a steeper slope. Moving the system west gets close to the property line.

Vichorek said that there was no change in how the bluff handled the water during the flood.

D. Schiltgen noted he has not cut any trees on the bluff, and this helps hold it in place. The trees around the cabin also help hold things in place. The access to the lake is farther away from the cabin so there is no foot traffic in front of the cabin. There is no stress on that part of the property.

Zoning and Environmental Services Administrator Cunningham's video of the property was viewed.

Suhonen asked if building proposed would be square with the existing deck. He also asked if the steps would become part of the building addition.

D. Schiltgen said yes. They would add a new deck, remove the shed and roof, and the new peak will go in the opposite direction. They want to maximize the overhang and keep the moisture away. They also plan to add gutters to keep water away from bluff. They do not currently have gutters on the cabin.

Suhonen said they are coming out 32 feet from current post that supports the current overhang. This is almost doubling the current floor plan.

D. Schiltgen said the deck is 28 feet and the new one would go an additional 26 feet over.

Vichorek said that the concern is still the distance from the bluff.

It was clarified that the cabin is already in the bluff zone and already closer to the bluff than allowed.

Suhonen said apparently they are not getting any closer, but there will be more of the structure.

Suhonen asked if there was language with the zoning office for mitigation, runoff, and that type of thing.

D. Schiltgen said they were told to divert runoff from roof away from the bluff.

Suhonen said they are going to have a lot of roof facing the bluff at project completion. There will also be a lot of runoff from the roof unless they divert the water another way.

Suhonen said the peak height is higher than current one.

D. Schiltgen said the pitch would be different but not higher. It will not be the 11/12; it will be a lesser pitch. The intent is to leave the roofline at the current height.

Hill read Development Review 314006.

Hill assumed Schiltgen looked into the drainfield relocation and found they had no options.

D. Schiltgen said no, not at this time. What they presented is a “not to exceed” option thinking if the variance is denied, there is an option to move farther back from bluff. He questioned Recommendation 1 in the Development Review where the applicant must undertake the project according to the plans and specifications submitted to the County with the application. Does that tell him the size has to be as specified?

Hill said they go by the application submitted.

Torma said if they go smaller than currently requested, they should table the proposal, and the new request must go through the Zoning Office.

Suhonen said from a Board perspective, it is easier to make a decision when they know the proposed size.

D. Schiltgen said that it would not be bigger than what is proposed. Would smaller be better when it comes to bluff stress?

The applicant must provide sizes with a variance request. D. Schiltgen was asked if there were options to increase the setback to the bluff? Could this be discussed?

D. Schiltgen asked if this was reason to table the request.

Suhonen said we could live with that rather than trying to make a decision without the proper information.

M. Schiltgen said they would need specific blueprints of a place and there is no fudging after submittal. It is what it is.

Hill said that is what the Board would like, to know exactly what they plan to do so they can vote on the specifics.

D. Schiltgen questioned the difference between stress on the bluff by a deck versus stress on the bluff by a house. Are there differences or is it all the same?

Suhonen said he cannot speak for the other members of the Board, but he would have no way of knowing that. The Zoning Office deals with this would best be able to recommend on that.

Torma said we are not engineers like that.

Hill asked Schiltgen what he would have to do to get the Board the exact dimensions.

D. Schiltgen said they would have to contact his architect and they would need to start drawing plans. He is not sure if this is the cart before the horse.

Vichorek clarified this is the size they would strive for if allowed. This is what they want unless forced to build smaller.

D. Schiltgen said force could also be cost and time. Trying to get a contractor is hard this time of year. Everyone is booked.

Hill asked when they propose to start the project.

D. Schiltgen said they would like to start early spring. They would like to get the septic system in this fall.

Suhonen said Cunningham recommended they examine relocating the proposed drainfield and septic tank to accommodate the structure expanding away from the bluff. Was this considered?

D. Schiltgen said he has not talked to the designer about the drainfield. The new system will be a mound.

Suhonen said that as Board members, they do not have the authority to table the request. The request to table must come from the applicant. The applicant can supply a better set of prints for the Board to vote on. There is a time requirement that the Board must consider so they could visit this at the next meeting if Schiltgen would be ready by that time. If not, they could sign a waiver.

D. Schiltgen understands this decision is needed within 60 days of the application request. This is July 11th to September 11th. The next meeting is after the September 11th date.

Suhonen asked Torma about the waiver.

Torma said that Cunningham explained this to D. Schiltgen on August 18th.

Schiltgen said that one 60 day extension is allowed. That would allow for hearing updated plans at the September or October meeting.

Suhonen said that once they sign the extension, it is up to them to get the paper work in.

Hill said building smaller would require new plans and necessitate a variance with a new fee if they did not table this request. It would be in Schiltgen's best interest to table the request, come back with firm plans, the Board would know exactly what they are voting on, and the process would be complete.

D. Schiltgen asked for clarification. If he did push the building back to the 30 foot bluff setback, would a variance be required?

Torma said the existing building is still nonconforming because of the existing setback.

Hill said unless if he moved the current structure back to the 30 foot setback, he would have to come back.

D. Schiltgen asked if a variance is required for a separate building that meets setbacks. It is a one acre lot with 150 feet of frontage.

Torma said the lot would not meet zoning standards for a second dwelling.

D. Schiltgen said there is another restriction out there for a second building.

M. Schiltgen asked if they could build the structure and connect it with a walkway; it would need a variance if connected to the nonconforming structure?

Torma said that they could not have two dwellings.

Suhonen said that if they table this request, Cunningham could answer their questions.

Vichorek said the Board is at the mercy of the zoning people. They can approve the variance on certain parts, but zoning makes the rules and the Board has to comply.

M. Schiltgen said that if they table the request, a waiver needs signing. She asked if Torma had the form with him. Torma did not.

D. Schiltgen said Cunningham explained the details of this process.

Torma said that usually the tabled request goes to the next meeting. Schiltgen may need more time to prepare.

D. Schiltgen said that he has to request the Board table his proposal, and there will be no more discussion until he comes back.

Vichorek said tabling saves them the fee of applying again.

For the record, D. Schiltgen requested the Board table this variance request.

c) **Variance Request #314009 – Robert Matuseski**

Robert Matuseski of 4226 County Road 61, Moose Lake, MN 55767 was present to speak in his own behalf. He is requesting to retain two nonconforming accessory structures. The accessory structures, pole building and hoop shed, are considered nonconforming as they do not meet the required setback from the Moose Horn River. The request is for property described as Part of the NE1/4 of the SE1/4 and Part of the SE1/4 of the SE1/4 in Section 16, Township 46N, Range 19W in Moose Lake Township on the Moose Horn River (63-022-1300, 1320, 1360). The property address is 4236 County Road 61.

Matuseski said he purchased the property and built behind an existing structure without first obtaining a zoning permit. When he went to apply for the permit, there was talk about buffer

zone compliance to allow the buildings to remain where they are. He moved the chicken coop/barn away from the river, seeded the property between building and river, and did everything the Zoning Office asked him to do. He had pictures of the improvements.

Hill clarified that Matuseski completed everything in the mitigation plan.

Matuseski said someone would come in September to see he is not mowing the grass along the river.

Suhonen asked about the 12 foot by 10 foot shed.

Matuseski said that building is gone.

Matuseski showed pictures of the changes. He put down grass seed, and removed the berm as the County requested. He though the berm was there to protect the property from the river.

The hoop building (Quonset) has been there for a long time. It was built without a permit, but is permitted now. It meets the current zoning specifications.

Matuseski said the building in question has a 150 foot setback from the building. The problem is that the buildings have concrete floors.

Matuseski feels he has done what Cunningham requested. She signed off and permitted the buildings. The issue is the distance from the building to the river.

Matuseski seeded the buffer zone with non-evasive grass seed. Karola Dalen visited the property, inspected it, put down stakes, and told Matuseski she will be back in September to make sure he was not mowing the buffer zone. He does not know what else he can do for this process.

Hill said the last step is the variance.

Zoning and Environmental Services Administrator Cunningham's video of the property was viewed.

Hill read Development Review 314009.

There were no questions from the Board.

There were no questions from the audience.

d) **<u>Variance Request #314010 Don and Connie Lumby</u>**

Don Lumby of 333 10th St NW, Apt 126, New Brighton, MN 55112 was present to speak on his own behalf. His request is to create two lots with less than 150 feet of lot width along a public road or approved private road in an R-1 Zoning District. Create two parcels on a road which does not meet the minimum required design standards, including road width, in Carlton County

Subdivision Ordinance, Ordinance #28. The property is described as Part of Government Lot 6 in Section 12, Township 46N, Range 19W in Barnum Township on Hanging Horn Lake (39-030-1834). The property address is 4041 County Road 13.

Lumby and his wife own about five acres on Hanging Horn Lake. A peninsula sticks out into the lake. Part of the parcel is for their camper trailer. They hardly use the end of the point, it is a bit of land that takes work to maintain, and they would like to sell about three acres of the peninsula. Both proposed parcels meet the conditions for two sewer systems, and the parcel had a wetland delineation.

The snag is that the proposed parcel would be land locked. Ordinance requires 150 feet of road frontage or a 66 foot road easement. That type of road easement is a big road. To put a road like that in there would cost up to $50,000. Lumby does not feel there is room for a road this size and it would screw up the adjoining parcel owned between Lumby and his brother. It has big swamp in the middle. A road of this caliber would be too big, too expensive, and be a safety issue. It would encourage faster traffic than a driveway would.

Lumby proposes they extend the current driveway past his trailer. The easement has a 33 foot easement in to the new lot. They could do a 15 foot to 20 foot road bed across and it would be similar to the current driveways. A fire truck, motor homes and other big vehicles have been down there. The road is wide, graveled, and solid.

Lumby invited Barnum Fire Chief Cory Hurst to look at the road. Hurst felt it is not necessary to run a two-lane road in there for one lot. This is not a subdivision like a development. The essence of the proposal is to extend the current driveway. Lumby would put in the driveway and possibly share the cost with the buyer.

The main concern Cunningham expressed to Lumby awhile back is a two-lane road for safety, emergency vehicles, and for getting in and out. Lumby does not feel this is a problem with the current roads.

The land layout drives off the county road about 200 feet, and there is turn around space. Going northwest 200 feet there is a “T” in the road for turning around. Lumbys have a loop driveway. There are all kinds of access. Lumby feels the road is a workable arrangement as it is simply a driveway without a lot of traffic. Lumbys do not go out there a lot. A new owner might build a home so they would be in and out every day. Lumby feels this is a safe and cost effective way to split the parcel so they can sell it.

Vichoreck said Lumby is talking about a two-rod road versus a four-rod road. Are there still a lot of two-rod roads still in the county? A two-rod road would probably work here if other similar roads were good for the fire departments.

Bill Hayden of Bill Hayden Land Surveying, 500 Folz Boulevard, Moose Lake, MN 55767 said there are many unrecorded township roads with unknown widths. There is no idea what size they are since they are not recorded properly. They are what you maintain.

Suhonen directed his comment to Hayden. The 33 foot right-of-way apparently goes right up to property line.

Hayden said this is correct. It goes to the property line and turns to avoid the wetland area. The only section built new would be across the front where the trailer sits.

Suhonen asked if Lumby owns the land across from the property line.

Lumby said it does not belong to him.

Suhonen said the road goes right to the property line. This does not happen all the time. Usually a road goes through the center of a property. Safety is a big issue. Once the property sells, there is no way of knowing what will happen. People could be coming in and out all the time. Is the road being snowplowed now?

Lumby said there is no winter plowing; they are not up there in the winter.

Suhonen said if someone moves in there permanently, this could create a new set of circumstances. He said there are two-rod rods in the County. Their township had two-rod roads until they hired Hayden to make them four-rod roads.

Lumby said if someone builds a permanent home, the road would be plowed as needed.

Suhonen said this is an indirect concern. There is a corner in there that is greater than 90 degrees. If you are coming in with a tanker truck in the middle of winter, this is not a fun corner.

Chief Hurst and Lumby talked about razing that corner farther into the property to open the radius of that corner.

Zoning and Environmental Services Administrator Cunningham's video of the property was viewed.

Vichorek asked if this would be a county road, township road, or remain a driveway.

Hayden said it would be a private road with a maintenance agreement between the property owners.

Many of the gravel drives now are between 15 feet and 20 feet wide on the road surface. They are graveled. Some have been gravel for over sixty years.

Hayden thought that any road over a certain length gets a name according to the 9-1-1 policy. That is why there are driveways with so many names on them.

There were no further questions from the Board.

Hill read Development Review 314010.

Hill asked Lumby if he had any problems with the conditions.

Lumby did not have any problems with the recommendations, but he did have a wetland question. Kelly Smith told him there is an exchange program if there is wetland impact.

Vichorek asked if Lumby referred to the property or to the road. The property is a different issue. Our concern is the road.

Lumby said the road would not affect wetland.

Hill read a letter from County Commissioner Olean, District 4, who is in support of this request.

There were no further questions from the Board.

(11) Hill closed public hearing at 8:34 p.m.

(12) Hill re-opened the Board of Adjustment meeting at 9:31 p.m.

Variance Request #314006 – Norbert Wollak
Motion by Suhonen, seconded by Vichorek and carried by all yea votes to **GRANT** Variance #314006 including those seven conditions listed in Administrator Cunningham's Development Review dated August 13, 2014.

Findings of Fact

1. Is the variance in harmony with the general purposes and intent of the official control? *Yes. A water oriented accessory structure is allowed.*

2. Is the variance consistent with the comprehensive plan? *Yes*.

3. Is the owner proposing to use the property in a reasonable manner not permitted by the official control? *Yes.*

4. Is the practical difficulty due to circumstances unique to this property? *Yes. The narrow lot prohibits relocation to a different site.*

5. Is the need for the variance created by actions other than the landowner or prior landowners? *Yes. The lot was created before controls were established in 1968.*

6. Will granting the variance (NOT) alter the essential character of the locality? *Yes. There are several similar structure setbacks in the area.*

7. Does the practical difficulty involve more than economic considerations? *Yes. The lot size limits the placement of the WOAS and there are similar structures in the neighborhood that have comparable setbacks.*

Conditions

1. The applicant must undertake the project according to the plans and specifications submitted to the County with the application.

2. The permit is invalid, or expires, if the holder does not have the work completed within one year of the granting of the permit.

3. The permit will be periodically reviewed by the County to assure compliance with the permit and permit conditions.

4. The County may enter onto the premises at reasonable times and in a reasonable manner to insure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.

5. The WOAS shall be finished in earthtone colors (subdued shades of grays, browns, yellows, reds, tans, and greens).

6. The property shall be considered buildable without the granting of a variance so long as all applicable setbacks, lot coverage and SSTS requirements are met.

7. If the applicant fails to meet the conditions set forth by the Board of Adjustment, the Board of Adjustment may revoke the variance.

Variance Request #314007 – Dennis and Michelle Schiltgen
Motion by Suhonen, seconded by Vichorek, and carried by all yea votes to **TABLE** Variance #314007 until applicant can provide detailed plans for the request.

Variance Request #314009 – Robert Matuseski
Motion by Suhonen, seconded by Vichorek and carried by all yea votes to **GRANT** Variance #314009 including those six conditions listed in Administrator Cunningham's Development Review dated August 11, 2014.

Findings of Fact

1. Is the variance in harmony with the general purposes and intent of the official control? *Yes. Administrator Cunningham stated in her comments the property use is reasonable.*

2. Is the variance consistent with the comprehensive plan? *Yes.*

3. Is the owner proposing to use the property in a reasonable manner not permitted by the official control? *Yes.*

4. Is the practical difficulty due to circumstances unique to this property? *Yes. The difficulty is due to the proximity of the river.*

5. Is the need for the variance created by actions other than the landowner or prior landowners? *Yes. The existing building has been in place for a while and has a concrete floor.*

6. Will granting the variance (NOT) alter the essential character of the locality? *Yes. The conclusions and recommendations stated will not alter the character of the locality.*

7. Does the practical difficulty involve more than economic considerations? *Yes. The existing building has a concrete floor making it nearly impossible to move.*

Conditions

1. The applicant must undertake the project according to the plans and specifications submitted to the County with the application.

2. The permit is invalid, or expires, if the holder does not have the work completed within one year of the granting of the permit.

3. The permit will be periodically reviewed by the County to assure compliance with the permit and permit conditions.

4. The County may enter onto the premises at reasonable times and in a reasonable manner to insure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.

5. The shoreland mitigation plan was approved July 17, 2014. The applicant shall institute the mitigation practices by September 1, 2015.

6. If the applicant fails to meet the conditions set forth by the Board of Adjustment, the Board of Adjustment may revoke the variance.

Variance Request #314010 Don and Connie Lumby

Moved by Suhonen, seconded by Vichorek, and carried by all yea votes to **DENY** Variance #314010.

Findings of Fact

1. Is the variance in harmony with the general purposes and intent of the official control? *No. The 33 feet right-of way is not sufficient according to Ordinance #28.*

2. Is the variance consistent with the comprehensive plan? *No. It does not meet subdivision standards.*

3. Is the owner proposing to use the property in a reasonable manner not permitted by the official control? *Yes.*

4. Is the practical difficulty due to circumstances unique to this property? *No. The practical difficulty is not established.*

5. Is the need for the variance created by actions other than the landowner or prior landowners? *No.*

6. Will granting the variance (NOT) alter the essential character of the locality? Not answered.

7. Does the practical difficulty involve more than economic considerations? *No. The practical difficulty does not appear to involve more than economic considerations.*

(13) a) Motion by Vichorek, seconded by Hill to appoint Suhonen as representative to the Planning Commission.

(14) Motion by Suhonen, seconded by Vichorek and carried by all yea votes to adjourn the Board of Adjustment meeting at 9:41 p.m.

Respectfully submitted,

Bonita L. Peterson