

**Becker County Board of Adjustments**  
**August 10<sup>th</sup>, 2023**

**Present:** Members: Chairman Roger Boatman, Delvaughn King, Dan Josephson, Kohl Skalin, Michael Sharp, Larry Knutson, and Planning and Zoning Administrator Kyle Vareberg.

**Absent:** Craig Hall

Chairman Roger Boatman called the meeting to order at 6:00 p.m. Planning & Zoning Administrator Kyle Vareberg recorded the minutes.

Introductions were given.

**King** made a motion to approve the minutes from the July 13<sup>th</sup> meeting with no changes. **Skalin** seconded. All in favor, Motion carried.

Chairman Roger Boatman read the protocol for the meeting.

Mike Sharp read the guidelines of the Minnesota statutes the board must follow in order to support or deny any request.

**OLD BUSINESS:**

**1. FIRST ORDER OF BUSINESS: APPLICANT: Micah & Manda Tweten** 3658 4<sup>th</sup> St E West Fargo, ND 58078 **Project Location:** 24511 Woodland Ln Detroit Lakes, MN 56501 **Tax ID Number:** 19.0791.000 **LEGAL LAND DESCRIPTION:** Section 08 Township 138 Range 041 AUD PLAT 138 41 LOT 17; Lake View **APPLICATION AND DESCRIPTION OF PROJECT:** Request a variance to construct a shop to be located 0' from the rear property line, 5' from the side property line, 30' from the centerline of the road, and to be at 31% impervious surface coverage. Application was tabled from the July 13<sup>th</sup>, 2023, hearing.

Tweten has tabled his application till the September 21<sup>st</sup>, 2023, hearing.

**2. SECOND ORDER OF BUSINESS: APPLICANT: Lyle S Pederson & Correen Pederson** 7640 550<sup>th</sup> St Dumont, MN 56236 **Project Location:** TBD Two Inlets Dr, Park Rapids MN 56470 **Tax ID number:** 34.0061.001 **LEGAL LAND DESCRIPTION:** Section 11 Township 141 Range 036; 11-141-36 PT GOVT LOT 3: COMM NW COR GOVT LOT 3, S 705.22' TO CTR RD AND POB: WLY AL RD 760.16', SLY 30.27', SW 88.19', SLY 300.39' TO LK, SWLY AL LK TO W LN GOVT LOT 3, N TO POB. LESS PT S & W OF CREEK AND LN: COMM NW COR GOVT LOT 3, S 887.8', E 239.03', SLY TO LK AND POB; N TO CTR CREEK AND TERM. TRACT 1. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a variance to construct a recreation court thirty

(30) feet from the OHW of a tributary. Application was tabled from the July 13<sup>th</sup>, 2023, hearing.

Lyle Pederson presented the application and stated he moved the proposed location of the recreation court.

Testimony closed.

Knutson thinks it's a reasonable request.

Boatman agreed.

**Motion: Skalin** motioned to **approve** the variance based on the findings of fact that it fits with the area, its out of the shore impact zone, and won't impact the neighbors.

**King seconded.** All in favor. **Motion carried.** Variance **approved.**

#### **NEW BUSINESS:**

**1. FIRST ORDER OF BUSINESS: APPLICANT: Darwin D Hagemeister & Tammie L Hagemeister** 5243 10<sup>th</sup> St Ne Cathay, ND 58422 **Project Location:** TBD Woodland Dr, Detroit Lakes MN 56501 **Tax ID Number:** 19.0119.000 **LEGAL LAND DESCRIPTION:** Section 08 Township 138 Range 041 PT GOVT LOT 3: COMM NE COR LOT 30 WOODLAND BCH, N 15.42' TO POB; E 9.81', N 68.32' TO MUNSON LK, WLY AL LK 62.96' SLY 57', E 50', S 17.73' TO POB; Lake View Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a variance to construct a storage shed fourteen (14) feet from the ordinary high-water mark, four (4) feet from the side property line, and thirty (30) feet from the centerline of a township road.

Vareberg commented that he met with Lake View Township, and they didn't have any concerns. He stated they would be approximately fourteen (14) feet from the Road Right of Way (ROW).

Knutson asked if there is a structure there now.

Hagemeister said there is a deck there right now and they would set the building on top of it.

Knutson asked if it was elevated off the ground.

Hagemeister said its more like a patio on the ground.

Testimony Closed.

**Motion: Sharp** motioned to **approve** the variance based on the fact that it is consistent with the purposes and intent of the ordinance and comprehensive plan, it puts the property to use in a reasonable manner, and it won't alter the character of the locality as there is already an existing structure in that location.

**Josephson seconded.** All in favor. **Motion carried.** Variance **approved.**

**2. SECOND ORDER OF BUSINESS: APPLICANT: Cynthia Knoll** 43621 218<sup>th</sup> St Osage, MN 56570 **Project Location:** 43621 218<sup>th</sup> St Osage, MN 56570 **Tax ID Number:** 33.0310.000 **LEGAL LAND DESCRIPTION:** Section 04 Township 139 Range 038 THE PINES 139 38 LOT 11 & 66' STRIP ADJ REAR & LOTS 12-14; Toad Lake Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a variance to construct an attached garage to be located nine (9) feet from a tributary deviating from the required setback of one hundred (100) feet.

Tom Knoll was present to speak for the application.

King asked if he was going to remove the existing garage on the property.

Knoll said yes.

Vareberg asked Knoll how far that garage is from the tributary.

Knoll said its about the same distance as his request.

Knutson thought the new building would be better for the environment than what is currently standing.

Josephson asked if he would be willing to manage stormwater with a gutter system into French drains.

Testimony closed.

**Motion: Sharp** motioned to **approve** the variance with the conditions the owner install gutters and French drains on the new structure to manage and treat stormwater and the existing garage must be removed. The motion was made based on the fact it's in harmony with the purposes and intent of the comprehensive plan and zoning ordinance, it puts the property to use in a reasonable manner, the location of the stream creates a unique circumstance to the property that is no fault to the owner, and the essential character of the locality will not change.

**King seconded.** All in favor. **Motion carried.** Variance **approved.**

134  
135 **3. THIRD ORDER OF BUSINESS: APPLICANT: Michael D Laude & Traci L Laude**  
136 16170 Maple Ridge Rd Audubon, MN 56511 **Project Location:** 16170 Maple Ridge Rd  
137 Audubon, MN 56511 **Tax ID number:** 02.0239.000 **LEGAL LAND DESCRIPTION:**  
138 Section 33 Township 139 Range 042; PT SE1/4 OF SW1/4: COMM MC #44 ON S LN SEC  
139 33 TH NE 864', TH SE 112', TH NE 33' TO POB; TH SE 135' TO NWLY LN PUB  
140 RD,NELY AL RD 362',NW 21' TO LIT CRMNT LK, SWLY AL LK TO POINT 22' NW  
141 OF BEG, TH SE 22' TO POB; Audubon Township. **APPLICATION AND**  
142 **DESCRIPTION OF PROJECT:** Request a variance to construct an addition and deck to  
143 existing home, to be located seventy-two (72) feet from the ordinary high-water mark.  
144

145 Michael Laude presented the application.  
146

147 Testimony closed.  
148

149 Knutson asked when the structure was originally built.  
150

151 Laude said 1970.  
152  
153

154 **Motion: Skalin** motioned to **approve** the variance based on the fact that it won't impact the lake  
155 as it's not any closer than the existing house sits now, and it falls within the allowable  
156 impervious surface coverage for a shoreland area.  
157

158 **King seconded.** All in favor. **Motion carried.** Variance **approved.**  
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161 **4. FOURTH ORDER OF BUSINESS: APPLICANT: Hall Family RLT 37895 SW Height of**  
162 Land Dr Rochert, MN 56578 **Project Location:** TBD E Juggler Rd **Tax ID Number:**  
163 25.0541.000 **LEGAL LAND DESCRIPTION:** Section 11 Township 142 Range 038  
164 JUGGLER BEACH 142 38 Block 001 LOT 17; Round Lake Township. **APPLICATION**  
165 **AND DESCRIPTION OF PROJECT:** Request a variance to construct a dwelling and garage  
166 to be located thirty (30) feet from the ordinary high-water mark.  
167

168 There was no one present to represent the application.  
169

170 Boatman asked Vareberg what the shore impact zone is in this location.  
171

172 Vareberg stated fifty (50) feet.  
173

174 Knutson asked the dimensions of the building.  
175

176 Vareberg said its jagged, but that the majority of the construction will be at fifty (50) feet.  
177

178 Skalin said he biggest concern is the septic.  
179

180 Vareberg said the building site is about five (5) above the water line as it sits now, and they plan to build  
181 it up probably another two (2) feet. He also commented that the area where the septic system will go is  
182 approximately ten (10) feet above the water.  
183

184 Skalin said there would be minimal tree removal except for a dead one and a few Birches.  
185

186 Knutson commented that if they moved the building, they would have to remove a large white pine.  
187

188 Boatman commented on the size of the structure in the shore impact zone and the responsibility of the  
189 Board to protect it. He said he doesn't think it's acceptable.  
190

191 Vareberg commented that the majority of concerns in the letters sent in were actually in regard to  
192 vegetation removal and habitat, and that if they move the structure, it will be more visible and require  
193 more vegetation removal.  
194

195 There was discussion of the proposed basement and the elevation above the ordinary high-water (OHW)  
196 mark.  
197

198 Vareberg said that if they raise the building site by two (2) feet it would sit five and a half (5-1/2) feet  
199 above the highest ever recorded elevation of that lake. If water levels ever rose again the lake does have  
200 an outlet.  
201

202 Skalin said he'd like to hear from the people present. He also commented that there will be a need to  
203 manage stormwater.  
204

205 Knutson asked if there has ever been a variance issued to the property.  
206

207 Vareberg said he could not find a record of one.  
208

209 Josephson said he doesn't see a practical difficulty, because the property was like this when it was  
210 purchased.  
211

212 Vareberg commented that there is a practical difficulty because it is a lot of record, and its two hundred  
213 (200) feet in width, so it has no buildable area.  
214

215 Josephson asked if every lot must be buildable.  
216

217 Vareberg said if it is a lot of record, it does.  
218

219 Josephson asked what the practical difficulty is that he needs the size of structure he's desiring to build.  
220

221 Vareberg said, nothing will meet the setback, so you're just picking an arbitrary number.  
222

223 Josephson agreed that is probably true.

224  
225 Knutson said they could bring it out of the shore impact zone with a smaller building.

226  
227 Vareberg commented that they just approved an attached garage to be nine (9) feet from the OHW of a  
228 tributary.

229  
230 Skalin asked if it's doable for a septic there.

231  
232 Vareberg said Darryl Bergstrom has looked at it and it is doable. He said it will be costly, but it is doable.  
233 He also commented that the existing septic there is likely sitting is the water table where this proposed  
234 mound system will be at twelve (12) to fourteen (14) feet above it.

235  
236 Sharp said it is a unique parcel and said there are other places around the lake with a closer setback than  
237 what is being requested.

238  
239 Boatman said they will accept the correspondence that is in the packets, and they would not read them  
240 again, but they are entered into record below:

241  
To whom it may concern,

I am a 15+ year property owner on Juggler Lake and have known the Hall family since they acquired their home several years ago. They have been wonderful residents and friends and are always willing to help with any needs on the lake in the spirit of fellowship and simply being good neighbors.

Our family was delighted to hear that they purchased the peninsula, and we spent time with them on the property as they laid out their development plan. From my perspective, the proposed use of the property will enhance the lakeshore without any clutter. While we can see the lot from our home, the property they are proposing will be all but invisible to us, and preserves the pristine natural appearance of the peninsula without ostentatious development or structures.

As lake-frontage becomes increasingly sought-after, I am satisfied that this use by the Halls will protect our lake as they are excellent stewards of the land and water, and respect the natural beauty of Juggler Lake while understanding how important it is to preserve it at the same time they enjoy its development. Our family supports the granting of the variance to allow them to proceed with their project as proposed.

242 Thank you for your consideration, John Trandem (and family) 38954 E. Juggler Rd  
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To whom it may concern

I own a home ¼ mile from this address, my address is 38886 Juggler road.

I understand the property owners "Halls" are Applying for a variance to build their home.

I reviewed the application and know first hand what the property looks like.

I have been on Juggler since 1985, and have known this property well and recall when the property had a home on it.

.....

I am in favor of allowing the property owners build the home they have plans for, this is awesome for the property owners of Juggler since we know what will be built , how they will build it, and what care they will use for our lake I believe the Halls love Juggler more than any other property owners and will continue to protect it and care for it.

Juggler lake will be better if this property plan is done.

I am available for any discussion but I regret not being able to attend the meeting in person but feel free to read my letter at the hearing.

Blessings

Mark and Vicki Kolsrud

Aug 2, 2023

Dear Becker County Board of Adjustment-

I am writing in support of the variance application by the Hall Family for their property on Juggler Lake at 38614 E Juggler Road, Waubun, MN 56589.

Our family has been on the lake since 2003 and we have slowly watched changes to property that are generally done in the best interest of our lake and the surrounding properties. Our lake is small and quiet, the way we all like it. When we first moved to the lake, the property the Halls are planning to develop had a trailer on it which was not ideal. In fact, it was a bit of an "eyesore"

I have personally been to the property and discussed the plans with the Halls. I believe they have taken every possibility into consideration to make this lot workable with a dwelling and garage that meets their needs. Additionally, I found it very reassuring the plan for clearing the lot to accommodate the dwelling. Someone could have come in there and just leveled all the beautiful trees, yet they are taking great pride in leaving up as much as possible. They are striving for that perfect situation where you will only see the dwelling when you are directly in front of it, which our family appreciates.

We have a great situation on Juggler Lake and if I felt this variance would jeopardize that, I would speak up. I feel their plan is solid, well thought out and done in way that respects the lake & neighbors.

Thank you for the opportunity to comment.

*Chris Rofidal*

Chris Rofidal  
39187 West Juggler Road  
Waubun, MN 56589  
612-963-2887

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Hello Janai,

We are writing in support of Craig and Christine Hall as the property they are looking to build on is directly adjacent to ours on Juggler lake, MN. We are in full support of them building on the peninsula.

Thank you,  
Carly Nelson & Brian Lindblad

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In your upcoming hearing you are asked to provide a variance to allow construction of a building that would be 30 feet from the high water mark on Juggler Lake. This is an amazing request that, if granted, could open the door to other lakeside development that would dramatically change the character of the experience of property owners on Juggler Lake. Obviously, Juggler is not an urban lake with houses crowding the shore. In making your decision please consider lake property owners who purchased their properties and built their cabins or residences with the assumption that no buildings would ever be allowed anywhere near this close to the lakeshore. Jon Christianson, Juggler Lake property owner

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Hi! Just wanted to drop a quick note in support of Craig Hall and family, as I understand they are trying to get approval on their new property on Juggler Lake. I can tell you that Craig is one of the most honorable and dependable people I know and has been tremendously helpful to me in being compliant with the county while developing my property out here. Craig shares my love for nature and keeping things as natural as possible. I can assure you he will do everything in accordance with Becker county when developing his own place.  
God bless Minnesota lake life!!

251

Love JD

252

To whom it may concern'

We have been made aware that the Becker County Zoning Board will be considering a variance for building on parcel 250541000 Juggler Lake. The structure would fall within 30 feet of the waterline.

We have had a cabin and property on Juggler Lake since 1975 and have observed attempts to build and develop that parcel over time. Some observations pertinent to building on that site aside from the fairly extreme reduction in the set back would be:

1. the access "road" to the wider possible building site is below water when the lake is 2-3 feet higher than current level and would require substantial fill to be reliable. A cycle of high water some years ago flooded the entire lot.
  2. Electricity was brought into the lot and a building was built some years ago and has been abandoned. Septic service would necessarily be as a pumping station along the access road.
  3. substantial fill would be required for the building site to prevent flooding. Other cabins on the East side of the lake have built retaining dykes or have raised foundations as much as 6 feet due to the low terrain
- Creating a "beach" access at the point would require removal of reeds and aquatic plants and permits for sand base. All of the above should be a "buyer-beware" situation and permission for this variance feels like a real stretch with many more extraordinary permits needed to actually develop the site.

--

Gail and Jerry Noller  
1416 Oakwood Drive  
Anoka, MN 55303  
763-427-6897

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Dear Planning Commission

My wife and I own property on Juggler Lake, located on the east side of the lake and south of the peninsula property that has requested this variance. Our property ID # is 235250000. We are writing to express our concerns about the variance request and to express our wishes that you do not grant the variance.

We think this peninsula is an environmentally sensitive area. It is low-lying and so small that there will not be adequate buffer areas around the proposed structure to mitigate runoff into the lake. We understand the proposed structure will be quite large (3500 sq ft). We think a structure of this size on the small parcel of land will be inconsistent with the present character of the lake. We are also concerned that it will not be possible to build a septic system on this small lot for such a large house, creating more problems with pollution of the lake.

We understand that the property owner wants to use this property for a cabin, but the land use restrictions were well known at the time of sale. There are other vacant lots on Juggler lake that would be more suitable for this type of development.

-Richard and Roberta Henderson

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RE: Parcel Number 250541000  
Hall Family RLT Setback Variance Application  
Permit# 313

August 9, 2023

I would like to thank Kyle Vareberg for returning my phone call and the information he provided. I would also like to bring to the conversation the statement from Mr. Vareberg "If it was today the county would not allow anyone to build on the property."

As legacy property owners on Juggler Lake for over 75 years, we have some concerns with the above reference application.

First off, we are not opposed to the development of the property. What we are concerned with is the proposed size of the structures and the unknown information regarding the septic system and type. The property is about the same lake level as our property and even though we have filled in and installed DNR recommended rip rap, we still get seepage from the lake over 70 feet away. We cannot see how a septic drain field would not seep into the lake. It has nowhere else to go, being surrounded by three sides of water, with a narrow driveway for the fourth.

The water level on the lake has been going up for at least 70 years. We have lost over 40 feet of front yard. The residents in our area have all had to rebuild cabins because of the rising water. A boat garage with 15 feet of shore in front of it had to be removed because it was submerged by the rising water. Trees over 100 years old have died and have stumps in the water. The weed bed in the middle of the lake had rocks showing are now under 8 feet of water. Mother nature does what she wants, when she wants...with no regard of who you are.

When we asked the county and the DNR for the high-water mark neither could give us an answer. The DNR said the old high-water mark was surpassed and they did not have a new level at the time we were going through our project, that was in 2011-12.

We are all stewards of the lake. That is why we have regulations in place to protect what we have now and for the future. By the county approving the variance, it is the green light for the septic company to put in a septic discarding all the minimum setbacks. Can the county guarantee there will be no septic leakage into the lake?

Thank you for your consideration.

Tom and Mary Jo Clark  
39224 East Juggler Road

I have great concern for how a structure of that size with such a minimum set back will affect the water quality. Great consideration needs to be given as to waste water. In the last 20 + years I have seen considerable decline in water quality and extreme increase in weed growth. The size of the structure proposed is not the biggest part of the story. Mike Santori 44401 Juggler road

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Planning and Zoning Department  
Board of Adjustment  
915 Lake Avenue  
Detroit Lakes, MN 56501

REGARDING:

Board of Adjustments Public Hearing , Thursday, August 10, 2023.

Agenda Item: New Business, #4. Project Location: Juggler Lake Peninsula Property # 250541000

Dear Board of Adjustment Committee: Larry Knutson, Craig Hall, Delvaughn King, Dan Josephson, Michael Sharp, Kohl Skalin, Roger Boatman

By way of introduction, I am not a property owner on Juggler Lake, but our family vacationed at Juggler Lake many years at Harry McNeilus's Bear Tray Bay Cabins beginning in the 1960s and continuing with friends after Bear Tray Bay Cabins were sold. I have concerns for the impact on shoreline, loon habitat, and lake use and abuse. This Juggler Lake Peninsula Property #250541000 is too small.

I am in receipt of the notification. It is by your invitation soliciting "Replies/Comments" from interested parties" that I am submitting this letter of response regarding the "Hall Family RLT's application for a setback variance from hundred (100) feet on a Recreational Development Lake to thirty (30) feet from the ordinary high-water mark to allow for the construction of a 3500 + dwelling and garage. "

Therefore, with all due respect for all concerned, I kindly submit this August 9, 2023 **letter objection to this application**. My primary objection to this variance request is allowing this set-back change to accommodate the proposed construction of a 3500 + multi-level dwelling, the septic-sewer capacity needed to support its use, and the watercraft misuse – all of which concern me and may ,in part or total, have a cumulative negative impact on the natural resources of Becker County Juggler Lake, its surrounding land and property owners. A build of this size would be better suited to a larger lake lot not this small peninsula.

Kind regards,

Barbara J. Knipe  
819 North 24<sup>th</sup> Street  
Grand Forks, ND 58203-2203  
Cc: email to [janai.seley@co.becker.mn.us](mailto:janai.seley@co.becker.mn.us).  
USPS Mailed: Letter with attachments.

261  
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August 9, 2023

Email delivery to [janai.selev@co.becker.mn.us](mailto:janai.selev@co.becker.mn.us)

Planning and Zoning Department  
915 Lake Avenue  
Detroit Lakes, MN 56501

Subject: Comments on Variance Request for Parcel No. 250541000  
Site Location: 38614 E Juggler Lake Road, Waubun, MN  
Permit No.: 313

Board of Adjustments Board Members,

My name is Thomas Henning and I provide these comments on behalf of my mother, Charlotte Henning, the owner of Lot 250221000 located to the northeast of the subject parcel. Attached is a letter from Charlotte Henning requesting that I speak on her behalf (Attachment 1).

I am a licensed professional engineer with the State of Minnesota. I earned a Master of Science degree in Civil Engineering from the University of Minnesota. My academic background and my professional practice include limnology and lake restoration. I am currently a practicing environmental engineering consultant.

Please provide me with future meeting notices, permit applications, variance applications, and other correspondence between Variance Applicant and Becker County (the "County") related to the development of the subject property at this mailing address and email address:

Thomas Henning  
734 Oak Tree Road  
Sheboygan, WI 53083

thenning734@gmail.com

I submit these comments to the Becker County Board of Adjustment (the "Board") on the Variance Application ("Application") submitted for Parcel 250541100 which is located on Block 001 of Juggler Beach 142 38, Lot 17 (the "Subject Parcel" or "Property"). Comments provided reference the Becker County Zoning Ordinance requirements.

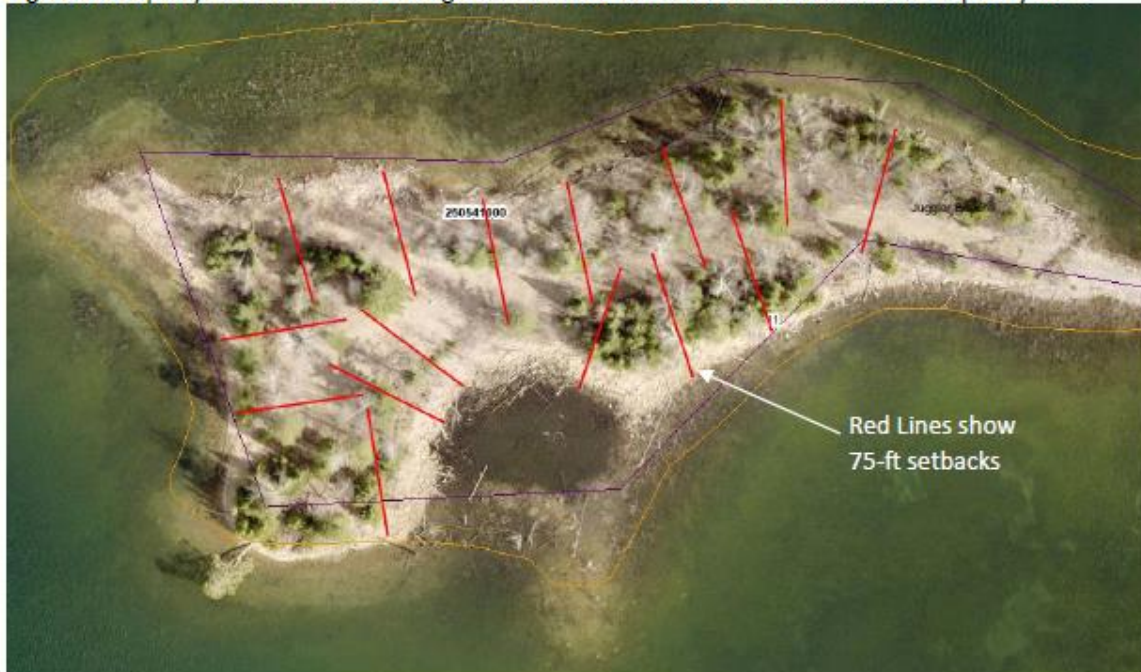
I reserve the right to provide additional comments on the development of this property. We received notice of the variance application request last week and we have had insufficient time to fully review the issues related to the application.

On Friday, July 21, 2023. Mr. Craig Hall verbally informed me of his intent to build a cabin and a septic system on the parcel. Although the variance application does not mention a septic system, my comments below address one because of Mr. Hall's verbal statement.

**Comment #1:** The Board should not approve a variance for a septic system that does not meet the County's 75-foot setback requirement. A 3,500 +/- square foot (ft<sup>2</sup>) residence will likely have a kitchen, multiple bathrooms, and laundry facilities. Each of these activities generate wastewater that needs to be treated. The applicant does not disclose the size, location or design of the requested drain field for the septic system.

Figure 1 shows the property with red lines added to represent approximate 75-foot distances. Nowhere on the property is a location with an acceptable setback for a septic system.

**Figure 1.** Property with red lines showing 75-foot setback distances. No location for a septic system.




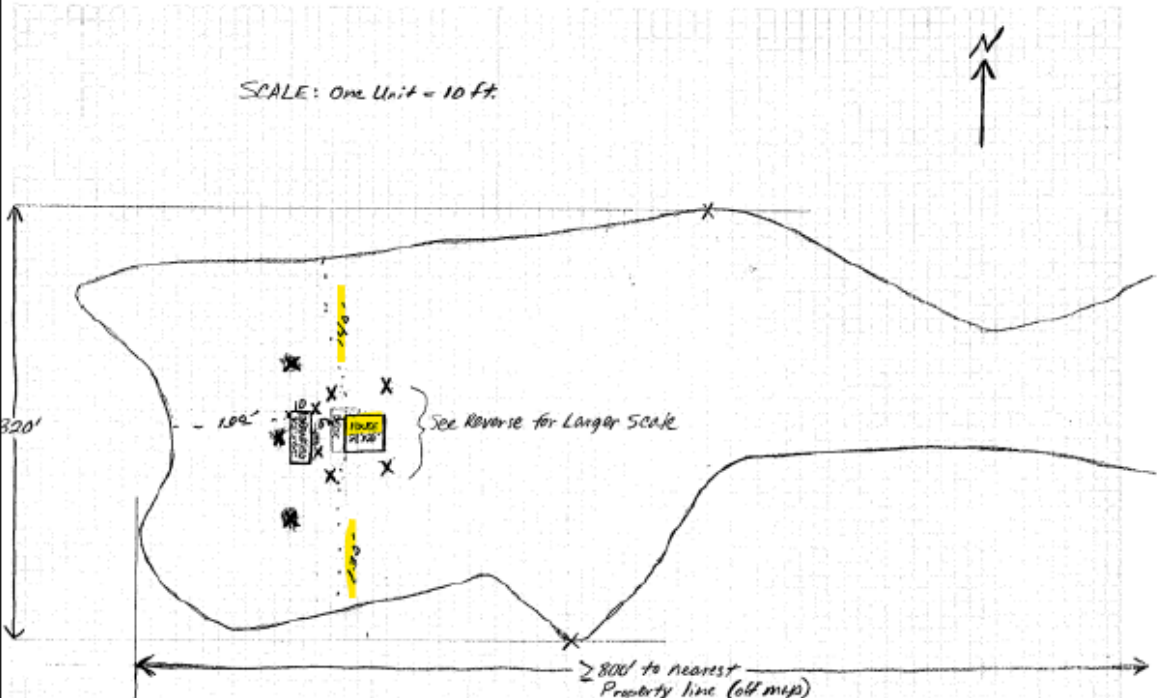
**Comment #2:** A septic system should not be allowed on this property because the property loses area with rising lake levels.

Juggler Lake does not have an outlet control structure (such as a dam) or outlet stream or river. Therefore, the lake elevation fluctuates with increased precipitation.

The property has little elevation and little slope, so increases in lake water level diminish the property's area and setbacks.

Since 1992 the property has lost 80 feet of available setback distance. In 1992, the north/south property distance was about 300 feet (140 + 130 + 28 + 4) providing adequate setback for a proposed cabin (Figure 2). However, the increase in lake level has diminished the property size. Today the north/south distance is about 220 feet. This is a loss of 80 available feet for setbacks. The property has little elevation. As the lake level rises, the water encroaches from three sides and the property is further diminished.

Figure 2. Drawing showing that previous cabin on property met 100-foot setback requirement. Also shows that the north/south distance in 1992 was about 300 feet.  
Drawing from Becker County Sewage System Permit for subject property, April 30, 1992.

 <p><b>BECKER COUNTY</b> 829 LAKE AVENUE, P.O. BOX 787 DETROIT LAKES, MINNESOTA 56502-0787 (218) 846-7314</p> <p><b>SKETCH PLAN FORM H</b></p> <p>Please be as complete as possible. Include all of the items listed below where applicable.</p>		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Application No.</td> </tr> <tr> <td style="text-align: center;">5405</td> </tr> <tr> <td>Tax Parcel No.</td> </tr> <tr> <td style="text-align: center;">25,0541,000</td> </tr> </table>	Application No.	5405	Tax Parcel No.	25,0541,000
Application No.						
5405						
Tax Parcel No.						
25,0541,000						
<p><b>GENERAL CHECKLIST</b></p> <p><input checked="" type="checkbox"/> scale</p> <p><input checked="" type="checkbox"/> north arrow</p> <p><input checked="" type="checkbox"/> lot dimensions</p> <p><input type="checkbox"/> structure location</p> <p><input type="checkbox"/> side lot setback</p> <p><input type="checkbox"/> road setback</p> <p><input checked="" type="checkbox"/> septic tank location</p> <p><input checked="" type="checkbox"/> drainfield location</p> <p><input type="checkbox"/> location of all wells within 100' of drainfield</p> <p><input type="checkbox"/> fill &amp; grading limits</p> <p><input type="checkbox"/> vegetation alteration limits</p> <p>Remarks: _____</p>	<p><b>WATER RESOURCE CHECKLIST</b></p> <p><input type="checkbox"/> location of ordinary high water level (OHWL)</p> <p><input type="checkbox"/> location of present water line</p> <p><input type="checkbox"/> setback from OHWL</p> <p><input type="checkbox"/> location of highest known water level</p> <p><input type="checkbox"/> existing local drainage</p> <p><input type="checkbox"/> location of wetland areas</p>	<p>Scale of Diagram: 1 inch = _____ feet</p> <p>Drawing By: <u>Paul G. Schiller</u></p> <p>Date of Drawing: <u>4/30/92</u></p>				
<p>Signature <u>Paul G. Schiller</u></p>						
<p>SCALE: One Unit = 10 ft</p>						
						

The peninsula has lost 1/2 of its area since the County previously approved a cabin on this site. Figure 3 is an aerial photograph of the property on April 19, 1991. The area was 3.30 acres at that time. Using more recent aerial photographs, it is easy to see how the property has diminished in size. Figure 4 compares the 1991 area with the more recent peninsula size. Figure 5 shows the area of the current peninsula to be 1.65 acres; exactly half of the 1991 area.

If the lake water level continues to rise, what will be the peninsula's area in five years? What will be the setback distance of a structure or septic system?

Figure 3. Peninsula Area on April 19, 1991. Area = 3.30 acres

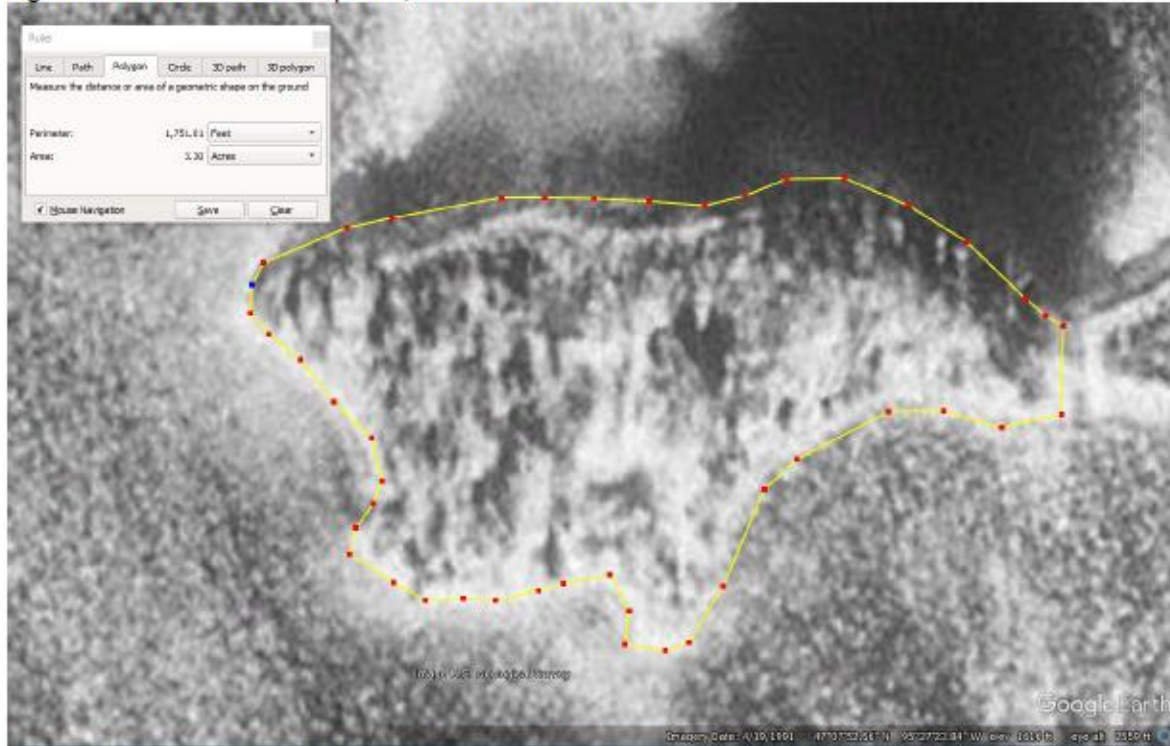


Figure 4. Comparison of Current Peninsula Area with 1991 Area.

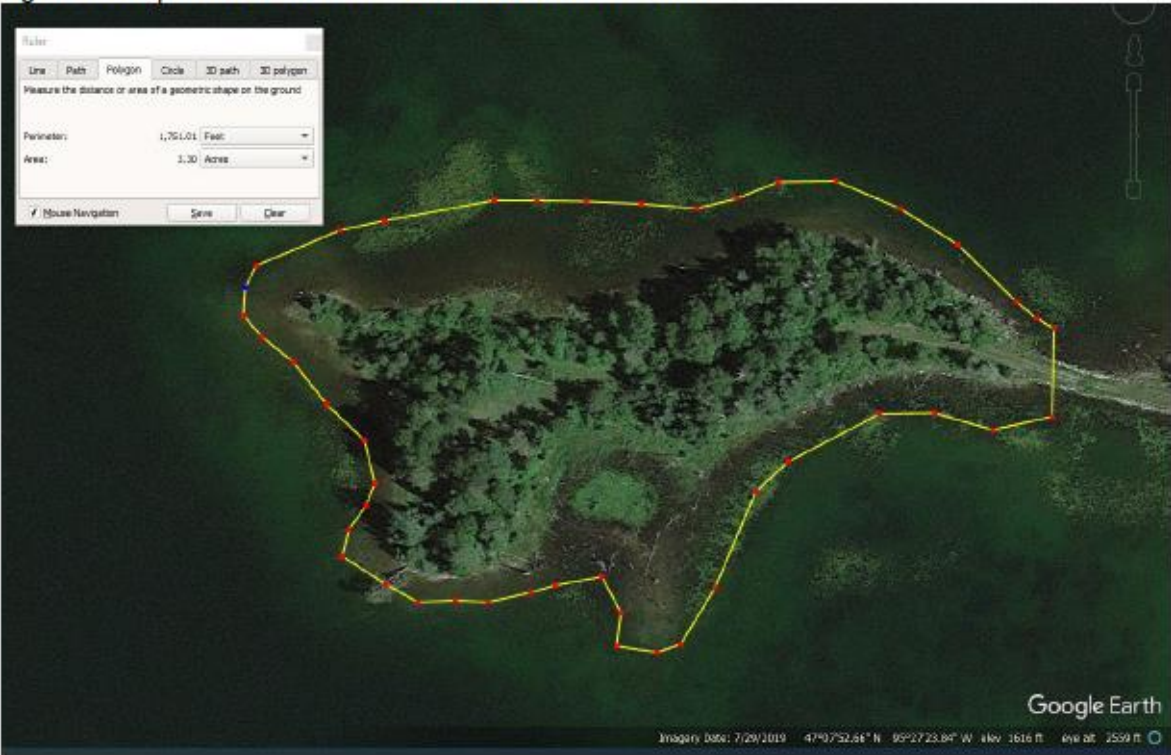
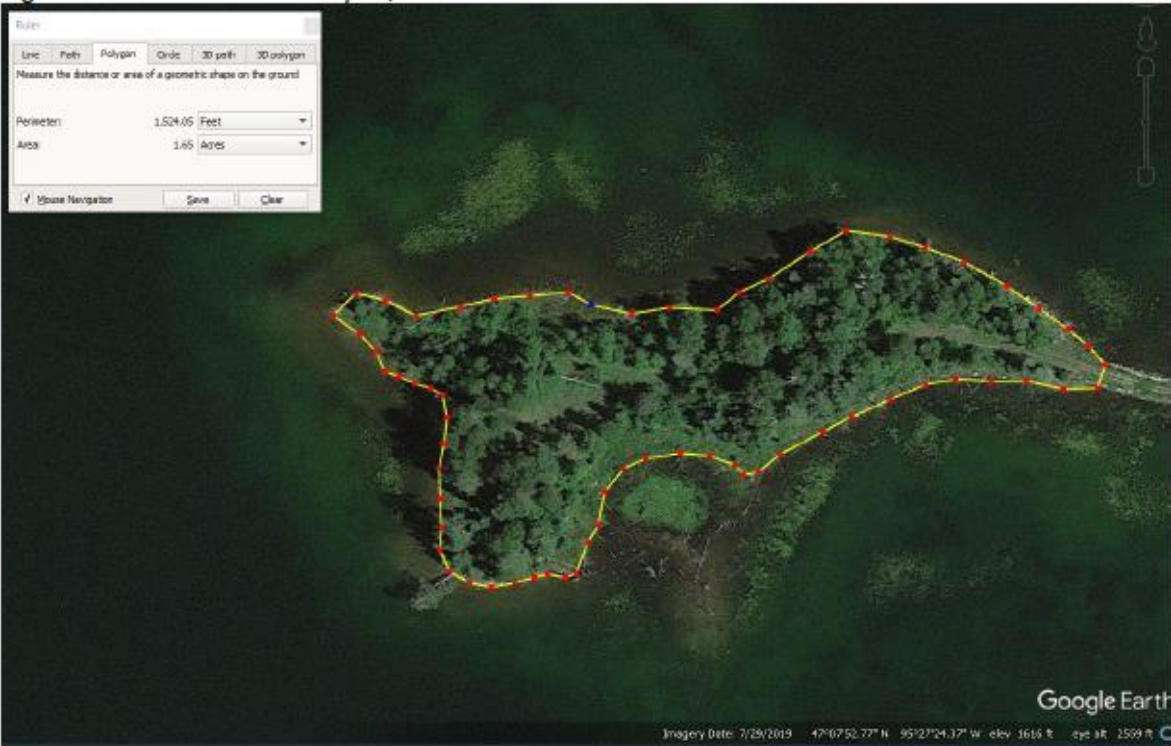


Figure 5. Peninsula Area on July 29, 2019. Area = 1.65 acres. Which is a loss of 50% of the 1991 area.



**Comment #3:** The Board should take no action on this variance request because the applicant has omitted critical information in the application.

1. The applicant checks the box for "Setback Issues," but does not disclose all the setback issues for this property:
  - a. No information is provided on the sewage treatment system for the proposed project.
  - b. No information is provided for a well to be sited on the parcel. The well's technical information is needed so the County can assess if the sewage treatment system meets the setback requirements from the well.
2. The applicant has shown no hardship related to the project. A demonstration of hardship is required for the Board to grant the variance BCZO 8.12.1.3 (see below).

**Comment #4:** The Board should take no action on this variance request because the applicant does not demonstrate that the variance will meet the Minimum Variance Necessary condition of the Becker County Zoning Ordinance, Chapter 8 Permits and Application Review Processes, Section 12, H:

*H. Minimum variance necessary. The variance granted shall be the minimum variance necessary to relieve the circumstance that justifies the variance.*

The applicant provides no information on the circumstances that justify the variance. Without knowing these circumstances, the Board should be unable determine if the project meets the Minimum Variance Necessary requirements.

The application is proposing to construct a 30-foot tall, 3,500 +/- square foot (ft<sup>2</sup>) structure on the Property. The applicant has requested a variance of the required 100-foot setback to 30 feet on three sides of the structure, to the North, West and South.

Previously, the County had approved a 28-foot by 28-foot (784 ft<sup>2</sup>) structure on this property that met the 100-foot setback requirements on all sides (see Figure 2). A similarly sized structure on this property today would still not meet the 100-foot setback requirement, but if properly orientated, could provide approximately 60-foot setbacks from the ordinary high-water mark (OHW) on each side. A structure of this size and orientation might meet the Minimum Variance Necessary condition.

**Comment #5:** The Board should take no action on the variance application because the application has failed to demonstrate that the variance meets all the Criteria for Granting a Variance listed in the Becker County Zoning Ordinance, Chapter 8 Permits and Application Review Processes, Section 12. Some of those criteria follow (shown in **bold italics**) followed by my comments.

- I. ***Criteria for granting variances. A variance shall be granted only if all of the following criteria are met:***

***1. Compliance with Statute. The Board of Adjustment shall not grant a variance unless it finds that the standards of Minnesota Statutes Annotated section 394.27, subsection 7 have been met.***

Here is that standard:

Subd. 7. **Variances; practical difficulties.** The board of adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the official controls. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The board of adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

This standard has similar wording to the Board's criteria for granting variances. As discussed below, the requested variance would not meet some of the required conditions.

1. The variance would not be in harmony with the general purposes and intent of the official control (see further discussion below).
2. The applicant has not established that there are practical difficulties with complying with the official control. The application is silent to hardship.

***2. Intent of Ordinance: Variances shall only be permitted if they are in harmony with the general purposes and intent of this Ordinance.***

The proposed variance is not in harmony with the general purposes and intent of this Ordinance. Below are some of the purposes of the Ordinance (from Chapter 1 Introductory Provision, Section 1 Provisions):

- A. *To promote and protect the health, safety, and general welfare throughout Becker County.*
- D. *To conserve the value of properties and encourage the most appropriate use of land.*
- F. *To preserve and enhance the quality of surface waters*
- G. *To conserve the economic and natural environmental values of shorelands*

One purpose of building setback requirements is to maintain the visual esthetics of the natural resources, particularly on shoreland properties and views from the lake. The proposed structure would be placed on a prominent peninsula on Juggler Lake that is visible by most locations on Juggler Lake. The proposed 30-foot structure would be taller than some of the vegetation along the Property's shore, so the structure would not be hidden from view. The proposed structure does not conserve the economic and natural environmental values of the Juggler Lake shorelands. The proposed structure would not conserve the value of nearby properties.

A septic system on the parcel would not protect health, safety, and general welfare of County residence and would not preserve and enhance the quality of surface waters. The applicant has not provided a location or design of the proposed septic system, but there is no location on the property that meets the required 75-foot setback. Untreated septage from a septic system placed too close to lake water can

introduce fecal coliform bacteria that is dangerous to human health. Septage also provides nutrients to the lake that promote algal blooms. Once the nutrients enter the lake it is very hard to remove them.

Juggler Lake has exceptionally clear water. Water clarity readings are commonly 14 feet or greater. One reason for this remarkable clarity is the County's septic setback requirements and the enforcement of those requirements. The County should continue to enforce those requirements.

***3. Hardship. Variances shall only be permitted if there are practical physical difficulties or particular physical hardships when the strict letter of this Ordinance is imposed. "Hardship" as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by this Ordinance. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this ordinance. The Board of Adjustment may consider the inability to use solar energy systems a "hardship" in the granting of variances.***

As previously stated, the application provides no information regarding the physical difficulties or particular physical hardships when the strict letter of this Ordinance is imposed. Without knowledge of what the hardship is, the Board cannot make a determination to grant a variance.

The applicant has other options than the proposed structure on this property.

1. The applicant can build a structure and a septic system on parcel 250220003 (located east of East Juggler Lake Road) then access the water on the subject property. Parcel 250220003 contains adequate space for building and septic setbacks.
2. Applicant can propose a more modest sized structure, position it with approximately 60-foot setbacks, then apply for a variance.

***5. Health and Safety. Variances shall be permitted only if the granting of the variance will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.***

As previously stated, a septic system on this parcel will not protect the public's health and safety. Leaking septage from a system located too near the water could release fecal coliforms into the water which can cause human illness and could release nutrients into the water that can cause algal blooms.

**Comment #6.** The proposed structure would not "Maintaining Essential Characteristics of the Locality". In the variance application, the applicant response to this question, "Will the variance maintain the essential character of the locality"?

**Applicant's Response:** *Yes. There are numerous other residents on the lake with similar setbacks to the lake.*

When evaluating setbacks, the County looks at the properties on either side of the subject property. The building on the parcel to the north (250540000) has an approximately 85-foot set back (see red line on Figure 6). The parcel to the south (250542000) has a concrete structure on the site that exceeds the 100-foot setback (see red line on Figure 6). The southern property has a permit submitted for a building with a 100-foot setback.

Figure 6. Nearby residences have 100-foot and 85-foot setbacks.



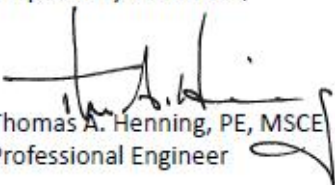
Existing buildings further to the north and south for several properties have much greater setbacks than 30 feet. Properties with a septic system that does not meet setback requirements does not meet the character of the locality. Therefore, "No. The variance will not maintain the essential character of the locality."

Thank you for the opportunity to submit these comments. I request that the Board send to me all permit application materials and other documents related to Permit #313.

Further, I request that the Board provides me with a 30-day notice of future public hearings that relate to the development of the subject property, so I have adequate time to review the materials and prepare to attend the meeting.

Please contact me if you have questions regarding this information.

Respectfully submitted,

  
Thomas A. Henning, PE, MSCE  
Professional Engineer

Attachment: Letter from Charlotte Henning

August 8, 2023

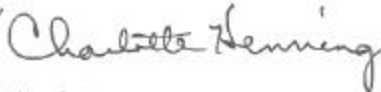
Planning and Zoning Department  
915 Lake Avenue  
Detroit Lakes, MN 56501

Re: Comments on Variance Request for Parcel No. 250541000, Juggler Lake

Board of Adjustments Board Members,

I, Charlotte Henning, owner of Lot 250221000 on Juggler Lake, Becker County, received notice of a request for a variance to build on parcel 250541000 on Juggler Lake. I do have significant concerns about this request for a variance, and have asked my son, Thomas Henning, to speak on my behalf. My son has particular expertise in the area of lake water quality and lake restoration. He has my full support and authority to speak for my interests and on my behalf. Please refer any correspondence or questions to him ([thenning734@gmail.com](mailto:thenning734@gmail.com)).

Sincerely,

A handwritten signature in cursive script that reads "Charlotte Henning".

Charlotte Henning  
3017 Elm St N  
Fargo, ND 58102

Regarding the application for a variance to be granted to the Hall family RLT on the property located at 38614 E Juggler Rd, Waubun MN 56589.

My name is James Anderson. I own property along with my brother Douglas Anderson located at 38588 E Juggler Rd, Waubun MN 56589. I am writing in regard to my opposition to this variance to be granted by the board of adjustments. My rationale for this opposition is listed below:

1. I believe the value of my property will be negatively affected. The property upon which my home resides offers scenic views from its location, of not only the lake but the trees and wildlife. These scenic views - free of development - are a major factor in the value of our property. These views will be partially obstructed by the development of the 3500 Sq ft., 30 ft high home that is proposed. Furthermore, the owners' docks, boats, and outbuildings will only be adding to obstruction and destruction along the shoreline.
2. The light pollution that will be generated by this home will disturb the natural serenity of the night sky. We've already seen the effect of light pollution on our night sky from another large home built to the southwest of our property.
3. The activities of construction, altering of the land and shoreline to protect from flooding, and general human activity threaten the existing environmental impact area of the shoreline due to the close proximity to the shore. The destruction of shoreline affects the lake water quality, which in turn affects the fishery. If the fish in our lake are impacted for the worse, it will in turn affect the Loons, Ospreys, Eagles, Otters, and other species of wildlife which we enjoy and desire to protect.
4. The whole purpose of having a setback of 100 ft from the high-water mark is to ensure the preservation of the lake and the associated shorelines from overdevelopment and damage. The citizens of Juggler lake want to prevent overdevelopment and damage so that the lake can be enjoyed for generations of people to come, to protect the natural ecosystem of the lake, and finally to protect the investment of those who already exist there and abide by the zoning regulations. The preservation

of the lake should not be lightly just because of one person's desire to build in an area that is clearly unsuitable for building.

5. In our 14 years on Juggler lake, we have enjoyed the peace, serenity, and purity of a northern Minnesota lake that has been free of the overdevelopment of the southern lakes; for instance, one could look at Becker county as an example of an area that suffers from noise, light, and water pollution. Moreso, we believe Juggler lake should be kept free of overdevelopment to protect the peace for property owners and for the wildlife that reside there.
6. Many people believe that change is a good thing, and it can be under the right circumstances. Our lake has changed for the better in a variety of ways such as new families moving in and in doing so, these residents are taking care of and respecting the environment around them. Yet, as I mentioned above, if this variance of land is granted, it will not be for better. A property of such a large size cannot inhabit an area such as that without causing destruction to the elements around it. Residents of our lake care about their properties, they don't seek to destroy just to build a great, big home. Furthermore, if our shorelines continued to be destroyed, it may result in the temporary regulation of motorized watercraft and recreation vehicles on this lake – which has already occurred on other lakes such as Christina lake. Similarly, if a property were to be built so close to the shoreline, it is guaranteed that any chemicals or materials used while building will contaminate the lake. A 2017 report from the National Lakes Assessment (NLA) has clearly demonstrated that “contaminants of emerging concern” are widespread in our lakes, rivers, and streams. These chemicals will negatively affect fish, wildlife, and human health. Major stressors in the environment impact lake quality, and this cannot be ignored.

We had plans to retire at our cabin in the next few years and were looking forward to the peace and quiet our lake offered. This development may change our plans. Our lake is already threatened by people that run wake boats, jet skis, and speed boats up and down the shoreline in complete disregard of no wake – zones; the impact these water vehicles make upon the shoreline, the wildlife, and the value of the investment in our property has already been noticed throughout the past few years by myself and many residents of this lake. There are other lakes that would be more suitable for this type of construction, and I believe the majority of the Juggler lake residents feel the same way. Minnesota is deemed as ‘The Land of 10,000 Lakes’; so, why would one want to approve to have our small, quiet lake overdeveloped when there is a vast number of lakes in this state that can accommodate a home of that size?

I appreciate the time you have taken to review my letter, and I look forward to hearing back from you.

Thank you,

James Anderson, R.N.  
701-429-7857

August 1, 2023

Planning and Zoning Committee for Becker County,

It has come to our attention that there has been a request to build on an existing peninsula on Juggler Lake, Waubun MN. This item is on your meeting agenda which will take place on August 10th, 2023 @ 6:00pm. There are a few points our family would like you to consider before making a final decision.

Juggler Lake is a small hidden gem with many beautiful untouched physical features that make it a very rare and unique place to be. The quality of life on the lake is healthy, enjoyable and desirable due to the natural, undeveloped, open spaces for nature to grow and wildlife to fly and roam.

This particular peninsula is one of four beloved landmarks on Juggler Lake. There are currently 2 islands and 2 peninsulas on Juggler Lake. One island is undeveloped while the other island has an older small cabin on it. One of the peninsulas has been recently developed which has a very large dwelling that overpowers the land space and does not fit the character of the lake. It has completely changed the landscape.

The reason for this particular variance request appears to be due to the extreme size of the building plan and its potential location on the peninsula parcel. While the peninsula is 4.3 acres in actual size, it is a very long and narrow land parcel. A 70-foot variance request is a massive ask and very difficult to even consider. We would ask that the building plan be redrawn with a smaller footprint to adhere to the state of Minnesota, Becker County's 100-foot setback rule or at least be redrawn so the variance request is closer to the 100-foot setback. Maybe the landowner would consider a tiny home or moveable structure to fit the actual space?

While doing research on this topic, this is a variance guideline that was discovered:

**How much variance is acceptable?**

What are acceptable variances? The only acceptable answer is, "It all depends." If you are doing a well-defined construction job, the variances can be in the range of +/- 3 to 5%. If the job is research and development, acceptable variances increase to generally +/- 10 to 15%.

If this is the case, a 3 to 5 foot variance request would be acceptable.

We understand the desire to build on Juggler Lake as it is a very special place to be. There have been other land opportunities available on Juggler Lake for this size of build. This particular piece of land is NOT the appropriate parcel to do so.

Building guidelines and setbacks are in place to PROTECT a natural setting. If they are continually reconsidered, why even have them? If this variance is approved, it opens the door for other future asks and approvals which could potentially impact the natural shoreline and future quality of life on the lake. The shoreline and quality of life are already being affected by the only surf/wave boat on Juggler Lake, which belongs to the individuals making this variance request. Up until 3 years ago, there was also a floating loon's nest right off the tip of this very peninsula which possibly broke free due to the excessive waves being made on our small 428 acre lake.

We appreciate your attention in regards to this important matter and ask for your support in denying the current variance request for a 30-foot setback on the Juggler Lake peninsula. To be clear, this is not about the Hall Family as they appear to be lovely. We simply do not approve of their plan.

Thank you for your careful consideration, from a family who owns a cabin on Juggler Lake and has been enjoying its natural beauty and the quality of life it has given us over the years. We would like to preserve the land and provide those same benefits for future owners on Juggler Lake.

8/2/23

Planning and Zoning Board Members,

I own a cabin on Juggler Lake and would like you to share a few points that need to be considered in regards to the variance request for the peninsula. I have a strong feeling against the variance request, but will stick to factual points.

It may be a conflict of interest with Mr. Hall being on the Planning and Zoning Board.

Having been on Juggler Lake for a very long time, it has been shared that the deed to that property at one point stated: No docks, no septic, no basement and no well were to be present on the property. This is why in the past, there has only been a trailer with wheels on that property. Either this information has been missed by realtors and the county over the years or there have been a lot of restrictions lifted.

The peninsula already looks to have been cleared on the property for the build. The shoreline has also been cleared. Has this been approved by the DNR? Do they have a permit?

This information is from the "Becker County Shoreline Guide to Lake Stewards" 28 page publication:

Substandard Size Lots:

Any lot not meeting at least the standard size criteria. Substandard lots are still buildable if setbacks can be met.

Clearing Lakeshore Properties: LIMITED clearing is allowed in the shore impact zone( ½ of the standard structural setback). Dead, dying or diseased vegetation may be removed. Trees UNDER 2" in diameter and 4 feet in height may also be removed. Clear cutting is NOT allowed. When in question, always secure a land alteration permit first.

All of these points need to be looked into before making a responsible decision.

Thank you for your time.

Juggler Lake Cabin owner

281 Tom Henning spoke on behalf of his mother, neighbor. He asked if there is more information on a  
282 proposed septic.  
283  
284 Vareberg said there is not yet. He said because of the concerns in the letters regarding a system, he and  
285 Darryl Bergstrom, a septic designer went and looked at it before the meeting to confirm if a system would  
286 be possible.  
287  
288 Henning said there is nowhere on the parcel to meet a seventy-five-foot setback for a septic system. He  
289 shared how the rise in water levels have significantly reduced the ability to meet setbacks. He also said  
290 that another rise could consume much more of this parcel.  
291  
292 Vareberg said there has been significant ground that's been lost, but when they shot elevations for the  
293 majority of the building site at fifty (50) feet, they were five and a half (5-1/2) feet above elevation right  
294 now.  
295  
296 Henning asked if that is where the septic system will be.  
297  
298 Vareberg said that is where the home will be. He stated that the location of where the proposed septic  
299 system and drain field will be is ten (10) feet and will be approximately fifty-five (55) to sixty-five (65)  
300 feet from the lake.  
301  
302 Vareberg shared the MPCA says it takes three (3) feet of unsaturated soil to treat a septic system to a  
303 point where you can consume it, so if you have a fifty (50) foot or a sixty-five (65) foot or twelve (12)  
304 foot setback versus having a septic tank in the water table as it is now how is it not a benefit.  
305  
306 Henning said the system out there is not currently being used. He also said it doesn't meet the  
307 requirements needed for a variance. He believes a more modest structure pulled back from the lake could  
308 probably make a sixty (60) foot setback. He also stated that it is not in harmony with the ordinance  
309 provisions, because of the proposed septic system. He does not feel it matches the aesthetics of the area.  
310 He feels the board has a responsibility to protect the health and safety of the water quality issues.  
311  
312 Boatman asked for clarity on the approved septic setback.  
313  
314 Vareberg said there is a permit process to get it approved.  
315  
316 Henning asked if he would need a variance from the Board of Adjustments to not meet the septic setback.  
317  
318 Vareberg said those variances are done administratively.  
319  
320 Henning asked if there would be a well.  
321  
322 Vareberg said yes, and that the minimum setback from a lake for a well is thirty-five (35) feet.  
323  
324 Henning thinks that the building should be kept to one (1) story.

325  
326 Boatman said the Board doesn't have control over that as the proposed height is allowed by ordinance.  
327  
328 Tom Clark, neighbor, spoke. He said he has experienced the flooding process and had to raise his cabin,  
329 and talked about how much the water has risen over the years. He said if the water goes up again the  
330 proposed structure will flood.  
331  
332 Testimony closed.  
333  
334 Boatman said there are issues with the lot in that its substandard, it's a lot of record, and a structure  
335 should be allowed to be built on the lot, but they need to decide if they feel this is the right structure.  
336  
337 Skalin said he was surprised how much support was received regarding this application. He noted there  
338 were many letters against it as well, but that you typically don't get a lot of feedback in support of an  
339 application, and he was surprised by the number in favor of this one.  
340  
341 Josephson said he still struggles with it being at thirty (30) feet and he feels the size of the structure is  
342 unnecessary. He said just because it's a lot of record, doesn't mean he can put whatever he wants on  
343 there.  
344  
345 Knutson said he has struggled with the decision making and whether he would vote for this if it was  
346 someone he didn't know applying and he said he would not vote for it.  
347  
348 Sharp said he thought the proposed structure size is reasonable, but it's up to them if they make him move  
349 it back and remove more vegetation or allow it as requested.  
350  
351 Skalin asked what kind of lake has a shore impact zone of thirty-seven and a half (37-1/2) feet.  
352  
353 Vareberg said General Development. He said that while the shore impact zone is important it is to be  
354 noted that on a general development lake that has more development its actual a shorter impact zone. The  
355 key thing for this application is whether there are circumstances unique to the property which there are.  
356  
357 Boatman asked how high he was going to raise the lot.  
358  
359 Vareberg said he thought it was two (2) feet.  
360  
361 Boatman said doing that would destroy vegetation.  
362  
363 Skalin disagreed. He said you would have to take some brush, but you wouldn't have to take big trees.  
364  
365 Vareberg commented that it's beneficial to keep as much vegetation as possible to help with stormwater  
366 runoff and stated that they can stipulate something regarding vegetation.  
367  
368 There was more discussion on the structure and aesthetics.

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Boatman said it's not the responsibility of the board to design his structure.

Skalin said if he stays under thirty (30) feet in height there's nothing they can say about it.

**Motion: Sharp** motioned to approve the application with the conditions that the applicant work with Becker County Soil and Water and Planning and Zoning to manage and treat all runoff from the structure based on the fact it is in harmony with the purposes and intent of the zoning ordinance, it puts the property to use in a residential manner which is reasonable as the surrounding land use is residential, that while the subject parcel is four (4) acres, the very narrow width creates circumstances to the property that were not created by the landowner, the request will not alter the character of the locality as there are several structures in the vicinity with a comparable setback and the impervious coverage will remain below the standard, and that the owner intends to use the existing vegetative cover on the lot to minimize visibility of the structure as well as mitigate stormwater impacts.

Vareberg shared some additional findings of fact for the Board to consider. The Findings are entered below:

### Formula for Variance Findings

PID Number: 25.0541.000 Name: Hall Family RLT

**1. Is the request in harmony with the general purposes and intent of the ordinance?**

Yes, the property is non-conforming in nature due to the fact it does not have 8500 sq ft of buildable area making a rational building location impossible. Allowing the variance will allow the landowner reasonable use of the land. All utilities will be established on the property including well and septic. Vegetation removal is very limited so visibility will be limited from the lake. All other requirement of the ordinance will be met or exceeded.

**2. Would granting the variance be consistent with the comprehensive plan?**

Yes, the property is located on a Recreational Development Lake and is being used in a similar manner to its surroundings.

**3. Are there practical physical difficulties and circumstances unique to the property not created by the landowners?**

Yes, the property is surrounded by water on three sides and does not provide any reasonable buildable location with the required setbacks.

**4. Would granting the variance allow the essential character of the locality to stay the same?**

Yes, there are numerous dwellings, approximately ten (10) on Juggler Lake with non-conforming setbacks some of which have setbacks of less than thirty (30) feet the OHW of the lake.

**5. Does the property owner propose to use the property in a reasonable manner not permitted by the ordinance?**

Yes, the property will be used in a residential manner consistent with the use of the properties on and near Juggler Lake.

**6. Health and Safety. Variances shall be permitted only if the granting of the variance will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.**

There are no known potentials to those listed above in the use requested in this application. All adjoining parcels are occupied by the same or similar use.

**7. Earth Shelter Construction. Variances shall be permitted for earth-sheltered construction as defined in Minnesota Statutes when in harmony with this ordinance.**

The request is not an earth shelter. N/A

**J. Additional criteria for Shoreland setback variances. Variances to the Shoreland setback provision of the ordinance may be granted under the following circumstances:**

**1. Alternative sewage treatment method. Where structures incorporate a method of sewage treatment other than soil absorption.**

N/A.

**2. Setback averaging. Where development exists on both sides of a proposed building site, setbacks may be varied to conform to the existing setbacks.**

N/A.

**3. Unusual topography. In areas of unusual topography or substantial elevation above the lake level, setbacks may be varied to allow a riparian owner reasonable use and enjoyment of his property.**

N/A.

**What is your decision?**

**Approve**

**Sharp** accepted the Findings to be included with his motion.

**Skalin seconded.** Sharp, Skalin, and King in favor. Knutson and Josephson opposed. **Motion carried.**  
Variance **approved.**

As there was no further business to come before the Board, **King** made a motion to adjourn the meeting. seconded. All in favor. Motion carried. Meeting adjourned at 7:15 pm.

\_\_\_\_\_  
Chairman Roger Boatman

ATTEST

\_\_\_\_\_  
Kyle Vareberg,  
Planning and Zoning Administrator