

MINUTES
PINE COUNTY BOARD OF ADJUSTMENT
January 6, 2016 4:30 p.m.
Pine County Health and Human Services Board Room
1610 Hwy. 23, Sandstone, MN

Members Present: David Koland, Tom Mestemacher, Richard Stepan, Gary Valvoda,
Members Absent: Carolyn Tuckner
Staff Present: Kelly Schroeder, Land Services Director; Caleb Anderson, Land and Resources Manager; Reese Frederickson, County Attorney
Others Present: Donald Makela, Kevin Hofstad, Michael Fleming, Patricia Makela, Lee and Shirley Uldberg, Charlie and Nancy Huber, Ron Gander

Call To Order: 4:32 p.m. Chairman Mestemacher asked all to rise and recite the Pledge of Allegiance to the Flag.

Election of Officers: Motion by Richard Stepan, Second by Gary Valvoda, 4-0 to resume same officers as in 2015; Tom Mestemacher as Chairperson. Richard Stepan as Vice-Chairperson. David Koland as designated secretary.

Approval of Minutes: 4-0 to approve the Minutes of August 5, 2015 as presented. No motion or second took place.

Committee Reports:

None

Hearings:

Donald Uldbjerg and Lee and Shirley Uldbjerg are requesting a variance at 64775 Big Pine Rd, Finlayson– Pine Parcel Number 27.0284.000; Section 21, Township 42, Range 21, (Pine Lake Township).

Pine County Shoreland Management Ordinance Section 5.11 (B) requires recreational development lakes have 150' of lot width. The owner is requesting a variance of 85' for a 65' wide lot at the shoreline.

Staff **Caleb Anderson** gave an overview of the request. **Anderson** explained that the existing lot has 265' of width at the shoreline. The applicant is proposing to create a lot with the existing home having 200' of lot width. Then, a 65' access strip would be subdivided to service the remaining +/- 140 non-riparian acres across the road. Big Pine Lake is classified as a Recreational Development lake, which requires 150' minimum of lot width. **Anderson** commented that the access strip drops about 20' in elevation from the road to the lake and that it is fairly well vegetated, including a strip of trees on the west side.

Chairman Mestemacher questioned **Lee Uldbjerg** about their ownership intentions with the property. **Uldbjerg** explained that he and his brother would like to divide the property into two

equally valued parcels. Their proposed variance would achieve this while offering **Lee Uldbjerg** access to the lake.

Mr. Uldbjerg's attorney, **Kevin Hofstad**, presented that the applicant has no intention to put a septic system or a structure on the proposed access strip. **Hofstad** then read the purpose and intent of the Pine County Shoreland Ordinance from Section 1.2 of said ordinance. **Hofstad** explained that he believes this variance would not pollute the lake and is not contrary to the intent of the Shoreland Ordinance.

Mr. Uldbjerg shared the history of his family's ownership of the property and his intention for the future on the property. **Uldbjerg** stated he has no intention to develop the property, rather to maintain a recreational property with lake access for his family.

Chairman Mestemacher opened the public hearing at 5:25 p.m.

Charley Huber voiced that he is supportive of the variance if it restricts that the lake access strip only services one single family home. **Huber** does not support an open ended granting of the variance, which could enable a future non-riparian housing development with deeded access to the 65' lake access strip.

Mr. Hofstad shared a document with the Board, which detailed why the applicant believes the variance is compliant with Section 3.6 of the Pine County Shoreland Ordinance.

Patricia and Donald Makela voiced support of granting the variance. They expressed that the variance would not negatively impact the lake or neighborhood.

Vern Luebeck stated that he is concerned that the access strip could be used as a boat launch.

Chairman Mestemacher closed the public hearing at 5:52p.m.

Discussion/Decision on Variance Request:

Secretary **Koland** stated that he believes the 65' access strip needs to be its own parcel, separate from the non-riparian farmland. **Koland** believes that will help maintain that the access strip to only serve one single family dwelling on the south side of the road.

Mestemacher requested County Attorney **Reese Frederickson's** comments. **Frederickson** stated that he believes the variance would not be compliant with state statute. State statute requires for variances that the property have unique circumstances not created by the landowner. This property does not have a unique circumstance preventing it from being subdivided in a manner compliant with the Ordinance. **Frederickson** stated that from case law you must consider whether there is a better alternative. **Frederickson** said if the owners subdivided the entire riparian area from the farmland across the road, the remaining farmland could have legal access to the lake through an easement, which would offer a better alternative.

This would create two conforming lots. The easement could expire when the ownership of the farmland is sold to another party.

Mr. Hofstad stated that the variance would be beneficial for the lake as the applicant is subjecting himself to conditions put on the access strip by the BOA. Creating an easement would not subject the access strip to any conditions such as restricting a septic system or more structures.

Mr. Frederickson stated that the concerns of the neighbors could more effectively be addressed through an easement. Also, if a neighbor sued the County for granting this variance, as it is not compliant with statute, **Frederickson** would have to defend the lawsuit and would lose.

Mestemacher asked the **Uldbjerg** if it would be a problem to not get an answer at this meeting. **Uldbjerg** was okay with not getting an answer until the next BOA meeting.

Mestemacher motioned to table the decision for the next meeting February 3rd. **Valvoda** seconded. 4-0 to table the decision on the variance until the next meeting so that the Board can give more consideration to the application.

Old Business:

None

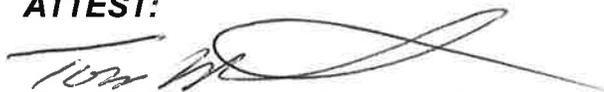
New Business:

None

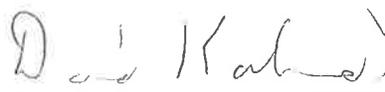
ADJOURN

Mestemacher/Stepan 4-0 to adjourn the meeting at 6:16 p.m.

ATTEST:



Tom Mestemacher, Chairman



David Koland, Secretary

