

**Beltrami County Planning Commission/Board of Adjustment**

**TABLE OF CONTENTS**  
**2010 Meeting Minutes**

Meeting Minutes for Monday, February 22, 2010 ..... 2  
Meeting Minutes for Monday, March 22, 2010 ..... 6  
Meeting Minutes for Monday, April 25, 2011 ..... 10  
Meeting Minutes for Monday, May 24, 2010..... 18  
Meeting Minutes for Monday, July 12, 2010..... 23  
Meeting Minutes for Monday, August 23, 2010..... 27  
Meeting Minutes for Monday, September 27, 2010 ..... 41  
Meeting Minutes for Monday, October 25, 2010..... 49  
Meeting Minutes for Monday, December 27, 2010 ..... 58

**Beltrami County Planning Commission/Board of Adjustment Public Hearing  
Meeting Minutes for Monday, February 22, 2010  
Administrative Services Center  
First Floor – County Board Room, Suite 102  
701 Minnesota Avenue NW  
Bemidji, Minnesota 56601**

**General Business**

Members present: Doug Underthun  
Michael Haws  
Ralph Morris  
Ray Dalby  
Don Hazeman  
Merilee Meyers  
Commissioner Jack Frost

Members absent: None

Others Present: William Patnaude, Beltrami County Environmental Services Director  
Kevin Stroeing, 40739 Hwy 71, Laporte, MN 56461  
Clayton Gladen, 40739 Hwy 71, Laporte, MN 56461  
Wanda Gladen, 40739 Hwy 71, Laporte, MN 56461  
Terry Loeken, 108 Minnesota Avenue, Bemidji, MN 56601  
Roslyn Loeken, 108 Minnesota Avenue, Bemidji, MN 56601

Chairman, Michael Haws, called the Beltrami County Planning Public Hearing for February 22, 2010, officially to order at 6:30 p.m. in the County Board Room, County Administration Building, Suite 102, at 701 Minnesota Avenue NW, Bemidji, MN 56601. Chairman welcomed everyone and introductions were conducted. Chairman had the Environmental Services Department explain the meeting process to the people in the audience.

**Planning Commission**

**OLD BUSINESS:**

None

**NEW BUSINESS:**

**Conditional Use Permit Request: Gladen Construction Inc.**  
40739 US 71  
Laporte, MN 56461  
**Terry Loeken**  
697 Harmony LN SE  
Pennington, MN 56663

Township: Brook Lake  
Body of Water: Cass Lake (4-30)

**The Purpose of:** Requesting the approval of a Conditional Use Permit for the development of an open pit operation for the extraction of gravel off approximately 4.5 acres of property owned by Mr. Terry Loeken and Gladen Construction. As per the requirements of Beltrami County Shoreland Management Ordinance No. 6, Article IX, General Shoreland Requirements, Section 908, Special Provisions for Extractive Uses.

**Legal Description:**

Tax Parcels 08.00181.00, 08.00184.00

Part of Government Lot One (1), Section Sixteen (16), Township One Hundred Forty-six (146) North, Range Thirty (30) West.

Southeast Quarter of Southeast Quarter (SE ¼ SE ¼), Section Sixteen (16), Township One Hundred Forty-six (146) North, Range Thirty (30) West.

Chairman, Michael Haws, asked if there was anyone present this evening representing the applicant. Kevin Stroeing of Gladen Construction came forward and said he was there on behalf of the property owners, Terry & Roslyn Loeken who were also in attendance this evening.

Chairman, Michael Haws, explained the concerns that were discussed at the Work Session at 5:30 prior to the Public Hearing. Those items of concern were the reclamation of the site after the borrow pit operation has been completed, the status of the United States Chippewa National Forest land located east of Harmony Lane as well as the archeological survey that has to be conducted on the Federal Land, the timeline for project completion, the noise issue that was brought up and also a concern that was not addressed in the Environmental Questionnaire was the working hours. Concerns that have been received from the County Highway Engineer in his memorandum dated February 9, 2010 as well as the telephone conversation the Environmental Services Director had with Tyler Koos, County Highway Engineer, this afternoon, prior to the Public Hearing.

Kevin Stroeing indicated he would like to start first with the U.S. Chippewa National Forest issue. He said he has been conducting business with Jeff Allison of the Blackduck Ranger Station, Blackduck, Minnesota. Mr. Allison is away on vacation but Kevin did talk to him as of to date. It was indicated the soonest that any type of a shovel dig can be done by the Chippewa National Forest would be sometime after April 1. Once that is done, there is a 30 day comment period required. They would not be able to get approval until this is done. Should they not be able to obtain approval from the U.S. Chippewa National Forest for the work on the east side of Harmony Lane, that portion of the road reconstruction would not commence.

Chairman, Michael Haws, asked Mr. Patnaude if he could comment on that. Mr. Patnaude's asked Kevin of Gladen Construction if he would not have a problem then of placing a condition on the Conditional Use Permit if it is approved subject to if there is approval by the U.S. Chippewa National Forest, that we would receive proof of the written approval. Kevin indicated that would be acceptable. Kevin explained that their hours of operation are 7:00 a.m. to 7:00 p.m. They run approximately five days per week. If they are running behind due to weather, they could be operating on Saturdays. In regard to the comments that were received by the County Highway Engineer, Gladen Construction is well aware they are going to have to have proper signage for the construction project as well as the transient of the trucks that will be moving out of the borrow pit operation. He indicated that material heading north on Highway 39 will go up Harmony Lane to the north. Material going south of the Mississippi River will go out on the Brook Lake Road and then turn right on C.S.A.H. No. 39. Kevin also explained that C.S.A.H. No. 39 is going to be closed for public traffic but will be open to local traffic only for residents to get to their homes.

Another issue that was brought up during the Work Session the Chairman explained was dust control. Kevin explained that dust control is a concern, that they will have a water truck on the construction project of C.S.A.H. 39 and that water truck will frequent the haul road and lay down water. Their last resort is calcium chloride. He explained they do not like to put calcium chloride down, especially in this type of material, because once it

is applied, it is very hard to blade the road. He also explained that the Beltrami County Highway Department will have a road inspector, Jim Harrington who will be the person who will make the decision whether or not calcium chloride has to be put on the road because of dust control complaints. In regard to the completion, Kevin said they are looking at hopefully starting this project in mid April or first of May. They have five swamps on the project that we have to borrow material out of. The borrow material that we are taking out of the pit will be placed in the swamps and placed at a higher elevation than the actual road basin to try and get that area to settle out. The material that is being used from the borrow pit is strictly sand not gravel.

There was discussion about the reclamation of the site. Chairman, Michael Haws explained to Kevin that the Planning Commission's concerns were they wanted to have the area reviewed by the Soil and Water Conservation District technical staff to determine whether or not the reclamation should be grasses or trees planted on the reclaimed site. Kevin broached that question to the owner, Mr. Terry Loeken. Terry Loeken indicated he didn't have any problem with that and could accept that as a condition. Further, there would be a tree buffer on his property between Cass Lake and the borrow pit operation.

Chairman, Michael Haws, thanked the applicant, Gladen Construction and also Mr. and Mrs. Loeken for a well constructed application and all the material that was required of the Beltrami County Shoreland Management Ordinance No. 6, Section 908 had been provided.

Chairman, Michael Haws, asked if there were any further comments or discussion by Planning Commission Members in regard to the application for the Conditional Use Permit for the development of an open pit operation and extraction of borrow material on approximately 4 ½ acres of property owned by Mr. Terry Loeken and Gladen Construction. Planning Commission Members indicated at this point in time they had no further comments or discussion. Chairman, Michael Haws, then opened it up for public comment. There was no response from the public. Chairman stated this three times. There was no response from the public. Therefore, he moved to close the comment period on the Conditional Use Permit application.

County Commissioner, Jack Frost, asked Mr. Stroeing if he could explain the type of material that is coming out of the borrow pit. Mr. Stroeing indicated the material was sand. Mr. Frost asked if this material was suitable for placing into the wetland area. It was pointed out by Mr. Stroeing that this is definitely suitable material and that this material will be placed in the cutout areas of where the wetland materials have been removed on the existing roadbed of C.S.A.H. No. 39. This material will be placed at a height higher than what the actual finished road grade will be for the weight of that material compacting. Once that compaction has taken place, the contractor will come back and shave off that additional material. County Commissioner, Jack Frost, thanked Mr. Stroeing for that information.

Chairman, Michael Haws, again asked if there were any further comments or discussion to the applicants request. **Don Hazeman moved to approve the Conditional Use Permit request of Gladen Construction and Mr. Terry Loeken for the development of approximately 4 ½ acres of property located within 1,000 feet of Cass Lake (4-30) classified by the Beltrami County Shoreland Management Ordinance No. 6 for the operation of a borrow pit for material to be taken from and to be used in the reconstruction of C.S.A.H. No. 39. Said approval is subject to the following conditions:**

- 1. The contractor, Gladen Construction takes into account the recommendations by the Beltrami County Highway Engineer in his memorandum dated February 9, 2010 as well as the comments that were made by the County Engineer in his telephone conversation with the Environmental Services Director.**
- 2. Said Conditional Use Permit shall expire April, 2011. If the contractor can complete it sooner all the better.**
- 3. The restoration is to be completed within 60 days after the borrow pit operation has ceased.**

4. **The area is to be looked at by the Soil and Water Conservation District Technical Staff to determine what vegetation is appropriate to place on the reclaimed area of the borrow pit.**
5. **The contractor is not to start work on the U.S. Chippewa National Forest area until written proof has been provided to the Beltrami County Environmental Services Department by the U.S. Chippewa National Forest Service that they have granted approval for the work to be done on the east side of Harmony Lane.**

Earlier in the motion, it was noted that all the material as required by the Beltrami County Shoreland Management Ordinance No. 6, Section 908 had been submitted by the applicants. Also, it should be noted in the motion there was no objections received by either of the adjacent property owners, only concerns about dust control and the applicant has indicated they will address those concerns.

**Chairman, Michael Haws, asked for a second to the motion. The motion was seconded by Ray Dalby. Chairman, Michael Haws, called for any further discussion. There was no further discussion. Chairman Michael Haws, called for a roll call vote. Voting on the motion to approve the Conditional Use Permit for a borrow operation on approximately 4 ½ acres of property owned by Terry Loeken and Gladen Construction.**

<b>Ralph Morris</b>	<b>Yes</b>
<b>Merilee Meyers</b>	<b>Yes</b>
<b>Don Hazeman</b>	<b>Yes</b>
<b>Ray Dalby</b>	<b>Yes</b>
<b>Doug Underthun</b>	<b>Yes</b>

**Motion carried and approved 5 to 0.**

That completed all the business before the Beltrami County Planning Commission for February 22, 2010. Chairman stated he was prepared to entertain a motion to adjourn. **Merilee Meyers moved to officially adjourn the February 22, 2010 Planning Commission Public Hearing. Ralph Morris seconded the motion. Voice vote was unanimous to adjourn.**

Respectfully submitted,

---

William J. Patnaude  
Beltrami County ESD Director

---

Michael Haws, Chairperson  
Beltrami County Planning Commission

**Beltrami County Planning Commission/Board of Adjustment Public Hearing  
Meeting Minutes for Monday, Monday 22, 2010  
Administrative Services Center  
First Floor – County Board Room, Suite 102  
701 Minnesota Avenue NW  
Bemidji, Minnesota 56601**

**General Business**

Members present: Doug Underthun  
Michael Haws  
Ray Dalby  
Don Hazeman

Members absent: Ralph Morris  
Merilee Meyers  
Commissioner Jack Frost

Others Present: William Patnaude, Beltrami County Environmental Services Director  
Bernie Kleinwort, 920 41<sup>st</sup> Avenue, Fargo, ND  
Connie Kleinwort, 920 41<sup>st</sup> Avenue, Fargo, ND  
Scott Bosten, Widseth Smith & Nolting

Chairman, Michael Haws, called the Beltrami County Planning Commission Public Hearing for March 22, 2010, officially to order at 6:30 p.m. in the County Board Room, County Administration Building, Suite 102, at 701 Minnesota Avenue NW, Bemidji, MN 56601. Chairman welcomed everyone and introductions were conducted. Chairman had the Environmental Services Department explain the meeting process to the people in the audience.

**Planning Commission**

**OLD BUSINESS:**

Review and approve meeting minutes for February 22, 2010. Motion by Ray Dalby to officially approve the Planning Commission meeting minutes for February 22, 2010, with noted corrections. Seconded by Doug Underthun. Voice vote unanimous.

**NEW BUSINESS:**

**Proposed plat:** Playa Del Norte Addition  
**Owner/Developer:** Bernard & Connie Kleinwort  
920 41<sup>st</sup> Avenue North  
Fargo, ND 58102  
Township: Port Hope  
Body of Water: Gull Lake (4-120)

**LEGAL DESCRIPTION:**

Tax Parcels 85.00102.01, 85.00104.00, 85.00105.00 (All parcels located within the corporate area of Tenstrike.) Part of Government Lot 2 and part of the Southwest Quarter of the Northeast Quarter (SW ¼ NE ¼), Section Eleven (11), Township One Hundred Forty-eight (148) North, Range Thirty-two (32) West. This is a partial legal description. Full legal description is available at the Beltrami County Environmental Services Department.

**THE PURPOSE OF:**

Subdividing approximately 18.0 acres into seven residential lakeshore lots on Gull Lake (4-120). Gull Lake is classified as a Recreational Development Lake with a minimum lot size requirement of forty-five thousand square feet of lot area and a width of one hundred and fifty feet. All the proposed lots are riparian lots which front on Gull Lake. All lots will have access to the existing public roadway named South Gull Lake Road Southwest.

Chairman, Michael Haws, asked if there was anyone present this evening representing the proposed plat. Mr. Scott Bosten from Widseth Smith & Nolting came forward. Chairman, Michael Haws, began the discussion on the proposed plat Playa Del Norte Addition. He requested that Scott provide the Planning Commission with clarification about the survey line going to the center line of the roadway, Gull Lake Road SW. Scott explained that his clients, Mr. and Mrs. Kleinwort, were going to dedicate thirty three feet of their property to the road authority, Port Hope Township, for road right of way purposes. Chairman Haws pointed out that the developers will need to meet with the Port Hope Town Board and obtain a road agreement from the Town Board pertaining to this dedication of thirty three feet.

Next was the discussion about the submitted design for Storm Water Management on the proposed lots in the plat. Concern was there it was depicted on the site layout retention ponds in front of the proposed building sites between the setback and the access to Gull Lake (4-120). It was suggested that maybe these retention ponds should be more off to the side of the building sites rather than directly in front towards the lake. Planning Commission member Don Hazeman asked, “Are the figures for the lot size with or without wetland areas?” Scott responded and stated that the lot sizes do not include the wetland areas on any of the proposed lots in the plat. Planning Commission member, Ray Dalby asked, “How is access going to be gained across those lots which show on the preliminary plat to have wetlands between the building sites and the lakeshore?” Beltrami County Environmental Services Director, Mr. Patnaude, responded and said the Shoreland Management Ordinance No. 6 provides for a board walk across those lots with a regular permit. The maximum width of a permitted board walk is six (6) feet. Mr. Patnaude pointed out to the Planning Commission members that no filling is allowed of wetlands within the required building setback area on any of the classified lakes covered by the Shoreland Management Ordinance No. 6.

Chair asked a question about what he had observed after doing a site visit to the property. He stated there appeared to be a cabin on the proposed lot 1. He wanted to know the status of this structure and asked why it had not been shown on the preliminary plat. Mr. Kleinwort responded and said, “It is an old cabin which I do intend to tear down and remove from the property.”

Chair asked, “Are you planning on placing restrictions on these lots?” Mr. Kleinwort responded, “Yes, I will have covenants on these lots. Mr. Patnaude asked, “Will the covenants state no mobile homes, strictly stick

built structures?” Mr. Kleinwort stated, “That is correct”. Mr. Patnaude asked the Chair if Mr. Kleinwort could be directed to get these draft covenants to the Environmental Services Department at least two weeks before the final meeting on the proposed plat. Chair asked Mr. Kleinwort if that was agreeable to him. Mr. Kleinwort said he would see to it that a draft of the covenants was sent to Mr. Patnaude’s office as directed by the Planning Commission this evening.

Chair asked Mr. Patnaude, “Is there adequate area for onsite sewer treatment systems for these proposed lots?” Mr. Patnaude responded there appeared to be adequate area for onsite sewer treatment systems for these proposed lots.

Chair asked if there were any more questions by the Planning Commission, if not he would open the proposed plat Playa Del Norte Addition for public comment. Chair made the announcement that public comment was now opened, a second and a third time. Seeing there was no public comment, Chair asked Mr. Patnaude for the record, to comment on the received correspondences.

- E9-11 locatable addressing comments received March 4, 2010.  
Road Names S. Gull Lake Road SW and Maple Court SW must be included on the final plat.
- County Surveyor: Boundary has been checked on the proposed plat Playa Del Norte Addition and has been found to be in compliance with Beltrami County Subdivision Controls Ordinance No. 5 and MS: 505.201.
- Bemidji Fire Department Chief David Hoefler email dated March 9, 2010, no concerns noted on the proposed plat
- Beltrami County Highway Department email dated March 8, 2010; County Engineer noted no concerns on the proposed plat.

Mr. Patnaude stated that was all the correspondence or emails received on the proposed plat before the Planning Commission this evening of March 22, 2010.

Chair asked if there were any other questions or comments by the Planning Commission. If not he was ready to entertain a motion on the proposed plat Playa Del Norte Addition.

**Planning Commission member Don Hazeman moved to grant preliminary approval to the proposed plat Playa Del Norte Addition subject to the following conditions.**

- 1. Old dilapidated building in Lot 1, to be physically torn down and all debris and concrete to be removed by the owner of the property before Lot 1 is offered for sale by the developer.**
- 2. Developer required to meet with Port Hope Town Board about the thirty three foot dedicated road right of way.**
- 3. All retention ponds must be shown on the final plat stating who will be responsible for maintaining them.**
- 4. Developer must comply with the E-911 locatable addressing requirements that road names S. Gull Lake Road SW and Maple Court SW be on the final plat.**
- 5. Statement in the plat dedication identifying which lots will require a board walk across the shown wetlands.**
- 6. The developer has a twenty-five foot easement on his property along the west side of the proposed Lot 1. Any proposed new structure will need to have a setback of ten (10) feet from the easement or the easement must be abandoned in order for the structure setback to be from the west boundary line of Lot 1.**

- 7. The proposed covenants should be forwarded to the Beltrami County Environmental Services Office no later than two weeks before the plat is scheduled before the Planning Commission for final recommendation to the County Board of Commissioners.**

**Chair called for a second to the motion. Doug Underthun seconded the motion. Chair called for a roll call vote on the motion voting:**

<b>Ray Dalby</b>	<b>Aye</b>
<b>Don Hazeman</b>	<b>Aye</b>
<b>Doug Underthun</b>	<b>Aye</b>
<b>Michael Haws</b>	<b>Aye</b>

**Motion carried and approved 4 to 0.**

**Chair asked if there was any further business. Mr. Patnaude stated that completed the business for March 22, 2010. Motion by Ray Dalby to officially adjourn the March 22, 2010 Planning Commission Public Hearing. Don Hazeman seconded the motion. Chair called for a roll call vote on the motion**

<b>Doug Underthun</b>	<b>Aye</b>
<b>Don Hazeman</b>	<b>Aye</b>
<b>Ray Dalby</b>	<b>Aye</b>

**Motion passed 3 to 0. Chair called the public hearing for March 22, 2010, officially adjourned.**

Respectfully submitted,

---

William J. Patnaude  
Beltrami County ESD Director

---

Michael Haws, Chairperson  
Beltrami County Planning Commission

**Beltrami County Planning Commission  
Board of Adjustment Public Hearing  
Minutes for Monday, April 25, 2011  
Administrative Services Center  
First Floor – County Board Room, Suite 102  
701 Minnesota Avenue NW  
Bemidji, Minnesota 56601**

**General Business**

Members present: Michael Haws  
Ralph Morris  
Ray Dalby  
Don Hazeman  
Ed Fussy  
Doug Underthun

Members absent: None

Others Present: William Patnaude, Beltrami County Environmental Services Director  
Charlene Sturk, Beltrami County Recorder  
Scott Buxton, Widseth, Smith Nolting, 315 – 5<sup>th</sup> Street NW, Bemidji, MN 56601  
Russ Riley, 1617 – 15<sup>th</sup> Avenue S, St. Cloud, MN 56301  
Pat Riley, 1617 – 15<sup>th</sup> Avenue S, St. Cloud, MN 56301  
Jim Eickhorst, 15707 Big Turtle Drive NE, Bemidji, MN 56601  
Dan Schaubhut, 12527 MEK-I-NOK CT NE, Bemidji, MN 56601  
Steve Schaubhut, 15715 Pool Lake Rd NE, Bemidji, MN 56601  
Danielle Johnson, 435 Chickadee Lane, Bemidji, MN 56601

Chairman, Michael Haws, called the Beltrami County Planning Commission/Board of Adjustment Public Hearing for April 25, 2011, officially to order at 6:30 p.m. in the County Board Room, County Administration Building, Suite 102, at 701 Minnesota Avenue NW, Bemidji, MN 56601. Chairman, welcomed all those in attendance. The Chairman then asked for introductions of Planning Commission members to the public. Board members introduced themselves. Chairman then asked the Environmental Services Director to explain the meeting process.

Next item was the review and approval of the March 28, 2011 Meeting Minutes. Minutes were electronically sent to all members in draft format. Noted changes were sent to Kathy and incorporated into the draft minutes before tonight's meeting. **Ralph Morris moved to officially approve the minutes of March 28, 2011 Beltrami County Planning Commission Board of Adjustment. Motion seconded by Ray Dalby. Chairman called for roll call vote.**

<b>Ralph Morris</b>	<b>Yes</b>
<b>Ed Fussy</b>	<b>Yes</b>
<b>Don Hazeman</b>	<b>Yes</b>
<b>Ray Dalby</b>	<b>Yes</b>

Doug Underthun Yes

Motion carried and approved 5 to 0.

**Board of Adjustment**

Chairman called the Beltrami County Board of Adjustment Public Hearing for April 25, 2011 officially to order.

**OLD BUSINESS:**

<b>Variance Request:</b>	<b>Cynthia Dudley</b>
	26233 Steel Bridge Rd
	Waskish, MN 56685
Township:	Waskish
Body of Water:	Tamarac River

**Purpose of:** Requesting a Variance permit construct a seasonal use only 22' x 34' log cabin with a height of approximately 18-20 feet with the closest point to the channel of the Tamarac River approximately Thirty Seven (37) feet.

**Legal Description:**

Tax Parcel 49.00385.00  
Lot 11, River View Subdivision, Section Sixteen (16), Township One Hundred, Fifty-four (154) North, Range Thirty (30) West.

After contacting Cynthia Dudley by telephone and speaking with her, staff explained that she is no longer interested in the property and is no longer pursuing the purchase agreement which she had presented with her Variance request. Therefore, she requested the Variance Board rescind approval of her Variance. **Motion was made by Doug Underthun that based on the conversation staff had with the applicant, the Variance approval be rescinded for Cynthia Dudley. Motion seconded by Don Hazeman. Chairman called for roll call vote. Voting on the motion:**

<b>Ralph Morris</b>	<b>Yes</b>
<b>Ed Fussy</b>	<b>Yes</b>
<b>Don Hazeman</b>	<b>Yes</b>
<b>Ray Dalby</b>	<b>Yes</b>
<b>Doug Underthun</b>	<b>Yes</b>

Motion carried and approved 5 to 0.



Chairman, Michael Haws, asked if there were any more comments from Board of Adjustment members. If not, the Chairman was prepared to open it up for public comment. Board members indicated they had no further questions. Chairman opened it up for public comment. There were two letters received that were read into the record. First letter read into the record was dated April 18, 2011 from Paul Preus, 2925 Quaker Lane North, Plymouth, MN 55441. The second letter read into the record was from Duane Erickson, 11687 Point Comfort Court NE, Bemidji, MN 56601. Also read into the record was the field review of the Dan Schaubhut Variance request by staff in the Environmental Services Department. Staff conducted a site review of the property on April 22, 2011. Stated the building appears to about 52 feet from the water level on this date. It appears the lake is a couple of feet above the ordinary high water mark so the 65 foot setback from the ordinary was not verified. Staff indicated there was minimal natural vegetation along the shoreline in front of the house. There is a silt fence already installed for protecting the debris to run off into the lake. The existing onsite septic system has been inspected and was found to be in full compliance and was originally designed to accommodate a two bedroom house and that is what is proposed by the applicant. Chairman asked if there were any more comments from the audience. Chairman asked for the third time. There was no response. Chairman then stated he was going to close the public comment period on the request of Daniel Schaubhut.

Chairman, Michael Haws, brought it back before the Board of Adjustment and indicated he was prepared to entertain a motion. **Ralph Morris moved to officially approve the Variance request of Daniel Schaubhut allowing him to construct the structure as proposed in his plans to be located no closer than the existing structure and that the height of the new structure is not to exceed 23 feet from ground level to the peak of the roof. Further stipulation is that a vegetative management plan be prepared and developed by the Soil & Water Conservation District and a report sent to the Board of Adjustment by the Environmental Services Department that the plan has been implemented by the applicant. Motion was seconded by Ray Dalby. We then went through the findings.**

### Findings of Fact

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreline Management Ordinance rules?

Yes (x)      No ( )

Why?

Single family residential permitted use. New house is no closer than the existing house.

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

Yes (x)      No ( )

Why?

Unable to build at the required setback of 100 feet. Extensive alteration of the steep slope would not be desirable. The applicant's need to rebuild a new modern structure.

3. Is the alleged hardship due to circumstances unique to this property?

Yes (x)      No ( )

The topography of the property. With the steep slope, would required extensive alteration for the placement of the new home at the required setback of 100 feet. The structure is afforded rights under the revised Minnesota Statute 394.27 which would permit the structure to be rebuilt at the same setback from turtle River Lake. This is a change from the original variance which had been approved in 2001.

Why?

4. Were the circumstances causing the hardship created by someone or something other than the landowner or previous landowners?

Yes (x)      No ( )

Why?

The original structure was constructed prior to the Shoreland Management Program.

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

Yes (x)      No ( )

Why?

Single family home. Surrounding lots all have single family homes located on them.

6. Does the alleged hardship involve more than economic consideration?

Yes (x)      No ( )

Why?

Economic hardship was not presented by the applicant.

If all answers are “yes” the criteria for granting the variance request have been met.

**Chairman stated the Findings of Fact were all yes for the approval of the Variance Permit. Chairman then stated he was prepared to entertain a motion on the request. Chair then called for roll call vote. Voting on the motion to approve the Variance Permit for Daniel Schaubhut, 12527 Mek-I-Nok Court NE, Bemidji, MN 56601.**

<b>Doug Underthun</b>	<b>Yes</b>
<b>Ray Dalby</b>	<b>Yes</b>
<b>Don Hazeman</b>	<b>Yes</b>
<b>Ed Fussy</b>	<b>Yes</b>
<b>Ralph Morris</b>	<b>Yes</b>

**Motion approved and carried 5 to 0.**

Chairman asked if there were any further business to come before the Board of Adjustment. Chairman stated he was prepared to entertain a motion to adjourn the Public Hearing for April 25, 2011. **Don Hazeman made a motion to adjourn the Beltrami County Board of Adjustment Public Hearing for April 25, 2011. Ray Dalby seconded the motion. Chairman called for roll call vote. Voting on the motion:**

<b>Doug Underthun</b>	<b>Yes</b>
<b>Ray Dalby</b>	<b>Yes</b>
<b>Don Hazeman</b>	<b>Yes</b>
<b>Ed Fussy</b>	<b>Yes</b>
<b>Ralph Morris</b>	<b>Yes</b>

**Motion approved and carried 5 to 0.**

**Motion was carried and approved 5 to 0 to officially adjourn the Beltrami County Board of Adjustment Public Hearing for April 25, 2011.**

### **Planning Commission**

**Chairman, Michael Haws, called the April 25, 2011 Beltrami County Planning Commission Public Hearing officially to order.**

#### **OLD BUSINESS:**

None

#### **NEW BUSINESS**

<b>Conditional Use Request:</b>	<b>The Eights on Big Turtle Common Interest Community #23 Contact Person: Russ Riley 15756 Big Turtle Drive NE Bemidji, MN 56601</b>
Township:	Turtle Lake
Body of Water:	Big Turtle (4-159)

#### **The purpose of the Conditional Use Permit is:**

Requesting the approval of a Conditional Use Permit for the creation of a new Common Interest Community #23 from the former Sunset View Chalet Condominium No. 6 consisting of nine existing single family residential structures and a proposed new single family structure on Unit #10 located on Big Turtle Lake (4-159) in accordance with the Beltrami County Shoreland Management Ordinance No. 6, Article IV, Table 1.

**Legal Description:**

Tax Parcels 47.01065.00, 47.01066.00, 47.01067.00, 47.01068.00, 47.01069.00, 47.01070.00, 47.01071.00, 47.01072.00, 47.01073.00.

Government Lots 5, 6 7, and part of Lot 8, Block 2, Sunset View Chalet, Section Twenty-two (22), Township One Hundred Forty-eight (148) North, Range Thirty-three (33) West.

This is a partial legal description. Full legal description on file.

Chairman, Michael Haws asked if there was anyone present to represent the request. Russ Riley came forward and indicated there needed to be a notice that the address was incorrect. Chairman, thanked Mr. Riley for coming forward. Chairman asked if there had been a letter received from the Turtle Lake Town Board. William Patnaude, Environmental Services Director, indicated there had not been a letter from the Turtle River Town Board but that he had been in contact with the Turtle Lake Town Board Chairman, Howie Schultz, who indicated that there had been a verbal agreement between the Turtle Lake Town Board and the former owners of the property at the time of the development back in the 1980's which was Rex and Kurt Kohl. That was for the permission to put in the sewer and water lines underneath the township road. Chairman asked Mr. Patnaude if all of the items that had been listed in the March 28, 2011 meeting minutes had been complied with. Mr. Patnaude indicated that all of the items had been complied with. The only item that had not been addressed was the location of the secondary area for a drainfield and the reason for that was because the existing property is serviced by two drainfields that had been checked and found to be in full compliance and they are not even functioning at 100 percent.

Chairman, Michael Haws, asked if there was any further discussion by Planning Commission members. Planning Commission members indicated at the work session they had gone through the documentation and that they were very comfortable that all of their concerns from the March 28, 2011 meeting had been complied with.

Chairman, Michael Haws indicated he was ready to entertain a motion for final approval of the Conditional Use Permit request of The Eights on Big Turtle. **Don Hazeman made a motion for final approval of the Conditional Use Request for The Eights on Big Turtle. Ralph Morris seconded the motion. Chairman called for any further discussion. It was pointed out that there should be a letter from the Environmental Services Department indicating that the onsite septic system did pass a compliance inspection and that staff felt there was more than adequate area for additional drainfield if it ever became necessary. Also it was pointed out there should be a letter from the Turtle Lake Town Board indicating they are in favor of what is being proposed as well in regard to the agreement about the sewer and water lines under the Turtle Lake Township road. Chairman asked Mr. Riley if that was agreeable to him. Mr. Riley indicated that was fine. Chairman stated he was prepared to take a roll call vote if there was no further discussion. There was no further discussion. Voting on the motion:**

<b>Doug Underthun</b>	<b>Yes</b>
<b>Ray Dalby</b>	<b>Yes</b>
<b>Don Hazeman</b>	<b>Yes</b>
<b>Ed Fussy</b>	<b>Yes</b>
<b>Ralph Morris</b>	<b>Yes</b>

**Motion carried and approved 5 to 0 to grant the issuance of a Conditional Use Permit for the new Common Interest Community No. 23, The Eights on Big Turtle.**

Chairman, Michael Haws, indicated that completed all the items before the Planning Commission for April 25, 2011. Therefore, he entertained a motion to adjourn. It was at this time the Environmental Services Director, William Patnaude, pointed out that he, County Attorney, Tim Faver, Chris Parthun, Brent Rud and Ralph Morris from the Board of Adjustment had attended training on land use decisions at Polk County on April 15, 2011 and that Ralph had taken the lead and put together a brief summary of that training and wanted to present that. Ralph Morris did present the summary of the training and Board of Adjustment members had discussion but they also directed staff to send a memo to the County Attorney indicating that the present Findings of Fact forms are not up to date and need to be brought into compliance with the new requirements of the recent court cases. With that the Chairman thanked Ralph Morris for the update on the training and Chairman also indicated that staff would be sending the training material to all the Board of Adjustment members.

Chairman then stated he was ready to entertain a motion to adjourn. Ralph Morris **moved to officially adjourn the Beltrami County Planning Commission Public Hearing for April 25, 2011. Ray Dalby seconded the motion. Voting on the motion:**

<b>Ralph Morris</b>	<b>Yes</b>
<b>Ed Fussy</b>	<b>Yes</b>
<b>Don Hazeman</b>	<b>Yes</b>
<b>Ray Dalby</b>	<b>Yes</b>
<b>Doug Underthun</b>	<b>Yes</b>

**Motion carried and approved 5 to 0.**

Respectfully submitted,

---

William J. Patnaude  
Beltrami County ESD Director

---

Michael Haws, Chairperson  
Beltrami County Planning Commission

**Beltrami County Planning Commission/Board of Adjustment Public Hearing  
Meeting Minutes for Monday, May 24, 2010  
Administrative Services Center  
First Floor – County Board Room, Suite 102  
701 Minnesota Avenue NW  
Bemidji, Minnesota 56601**

**General Business**

Members present: Doug Underthun  
Michael Haws  
Don Hazeman  
Ralph Morris  
Ed Fussy-new member  
Commissioner Jack Frost

Members Absent: Ray Dalby

Others Present: William Patnaude, Beltrami County Environmental Services Director  
Bernie Kleinwort, 920 - 41<sup>st</sup> Avenue, Fargo, ND 58102  
Connie Kleinwort, 920 - 41<sup>st</sup> Avenue, Fargo, ND 58102  
Gary Thompson, Widseth, Smith & Nolting, 315 – 5<sup>th</sup> Street NW, Bemidji, MN 56601

Chairman, Michael Haws, called the Beltrami County Planning Commission/ Board of Adjustment Public Hearing for May 24, 2010, officially to order at 6:30 p.m. in the County Board Room, County Administration Building, Suite 102, at 701 Minnesota Avenue NW, Bemidji, MN 56601. First order of business was introductions of Planning Commission members to the public. Chairman asked the Environmental Services Department to explain the meeting process to the people in the audience. Due to a very small audience of only two people, the Environmental Services Director expediently handed out the detailed explanation of the meeting process to each of the individuals.

**Review and approve April 26, 2010 Meeting Minutes. Chairman stated that during the work session he had been informed that some of the members were having difficulty opening up the email that was sent by Kathy. Environmental Services Director stated let us defer this and he would make copies of the minutes that were sent out later this evening so that Board members would be able to view them**

**Board of Adjustment**

**OLD BUSINESS:**

None

**NEW BUSINESS:**

**Proposed Variance Request of: B. Christina Kippenhan**

12487 Sundog Trail NE  
Bemidji, MN 56601  
Turtle Lake  
Movil Lake (4-152)

Township:

Body of Water:

**The purpose of:**

Obtaining a Variance Permit to remove the existing 24' x 40', one-story, single family home with a setback of 80 feet from Movil Lake and to replace it, in the same location, with a 24' x 40' two-story, single family home with a height of 29 feet from the grade to the peak of the roof. Lake Movil (4-152) is classified as a Recreational Development Lake with a setback of 100 feet from the ordinary high water mark.

**Legal Description:**

Tax Parcels 47.00921.00

Lot Five (5) and part of Lots Four (4) and Six (6), Timber Ridge Subdivision, First Addition Section Thirty-four (34), Township One hundred, forty-eight (148) North, Range Thirty-three (33) West. This is a partial description. Full legal description on file at the Beltrami County Environmental Services Department.

Chairman asked if there was anyone present representing Christina. Christina came forward and introduced herself to the Board of Adjustment. Chairman indicated that during the work session Board Members were trying to figure out what the actual overhang was of the existing house. Christina said she felt that her overhang toward the lakeside of her existing house right now is probably about 3 feet. The Chairman explained that during the work session Board Members were concerned that with the new residential home being two-story and with the roof overhang, the question was whether that was breaking the plane and going closer to the lakeshore of Movil Lake. Christina responded by saying no. She felt that the 2 ½ foot overhang would actually be less; that she was actually not going any closer to the lake than what the present structure already is.

The Chairman stated the other concern they on the lakeside was the storm water and asked Christina if she was going to be putting in roof gutters for the new home. She indicated that she has a problem in the back side toward the garage at present and she explained that she had not thought about putting gutters on the front side of the structure toward the lake. She did explain to the Board of Adjustment Members that she has maintained the vegetation on the lakeside and that she has no intention of doing any vegetation alteration because she does like the privacy and the fact that the home, during the summer months, is very adequately screened from the lake.

In looking at the prints Christina provided in her application, Commissioner, Jack Frost, asked about the porch and the roof. He stated that she has this on the front side of the structure toward the lake. Christina stated that is not correct. The porch in which Commissioner Jack Frost is looking at is on the backside toward the garage. She stated the reason why the roof is slanted the way it is, is so surface water from the roof area will drain toward the garage. At present she indicated she has been having some problems with water coming off the roof and draining into the garage.

Board of Adjustment member, Ralph Morris asked if Christina planned on keeping the current deck. Christina responded that yes she had no intentions of revising the deck or taking the deck out.

There was some discussion in regard to the requested roof height. It was pointed out that the setback requirement on the lake is a 100 foot setback. The statement is that the house is going to be closer than the existing house is on the drawing and that the maximum roof height of 29 feet does fit the standards that the Board of Adjustment has been using.

**With that Ralph Morris moved to approve construction of a new single family home on the same footprint as the existing home that is presently there. Further, that the property owner is to address the runoff of storm water from the roof toward the lake. The house is not to exceed the dimensions as submitted by the applicant and the total height from the ground surface to the peak of the roof is not to be any more than 29 feet. Doug Underthun seconded the motion. Chairman called for any further discussion. Chairman then opened it up for public comment. He stated that three times. There was no public comment. Chairman then stated he was prepared to go into the Findings of Fact.**

### **Findings of Fact**

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreline Management Ordinance rules?

Yes (X)      No ( )

Why?

This is a single family home which is a permitted use within the shoreland program. The existing house is, according to the applicant and parties that have reviewed it, is inadequate to be repaired due to its age. The new home is going to be energy efficient so the new home will actually improve the property. The onsite septic system has been found to be in compliance with the 2 bedroom requirement and the home is being proposed as a two bedroom home. The location is not changing of the existing home. The new home is to be built in the same footprint no closer to the lake than the existing home.

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

Yes (X)      No ( )

Why?

With the location of the garage which was permitted in 1997, the 24' x 36' garage at 115 feet away from the ordinary water mark of Movil Lake it creates a problem of where to place the new home.

3. Is the alleged hardship due to circumstances unique to this property?

Yes (X)      No ( )

Why?

The construction of the garage in 1997 at 115 feet from the lake, the fact that the house was in existence prior to the Shoreland Program in 1971 and furthermore, that an addition was allowed to the house in 1980.

4. Were the circumstances causing the hardship created by someone or something other than the landowner or previous landowners?

Yes (X)      No ( )

Why?

Same as question #3.

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

Yes (X)      No ( )

Why?

It is a residential area, seasonal and year around homes.

6. Does the alleged hardship involve more than economic consideration?

Yes (X)      No ( )

Why?

No hardship was brought forward.

If all answers are “yes” the criteria for granting the variance request have been met.

**Chairman called for roll call vote. Voting on the motion:**

<b>Doug Underthun</b>	<b>Yes</b>
<b>Don Hazeman</b>	<b>Yes</b>
<b>Ed Fussy</b>	<b>Yes</b>
<b>Ralph Morris</b>	<b>Yes</b>

**Motion was approved 4 to 0.**

**Chairman stated that completed the work before the Board of Adjustment for May 24, 2010 and was prepared to entertain a motion to adjourn the Board of Adjustment Public Hearing for May 24, 2010. Motion was made by Ralph Morris, seconded by Don Hazeman. Voice vote was unanimous. Chairman called the Board of Adjustment Public Hearing for May 24, 2010 officially adjourned.**

**Planning Commission**

**OLD BUSINESS:**

<b>Proposed plat:</b>	<b>Playa Del Norte Addition</b>
<b>Owner/Developer:</b>	<b>Bernard &amp; Connie Kleinwort</b>
	920 41 <sup>st</sup> Avenue North
	Fargo, ND 58102
Township:	Port Hope
Body of Water:	Gull Lake (4-120)

**LEGAL DESCRIPTION:**

Tax Parcels 85.00102.01, 85.00104.00, 85.00105.00 (All parcels located within the corporate area of Tenstrike.) Part of Government Lot 2 and part of the Southwest Quarter of the Northeast Quarter (SW ¼ NE ¼), Section Eleven (11), Township One Hundred Forty-eight (148) North, Range Thirty-two (32) West. This is a partial legal description. Full legal description is available at the Beltrami County Environmental Services Department.

**THE PURPOSE OF:**

Subdividing approximately 18.0 acres into seven residential lakeshore lots on Gull Lake (4-120). Gull Lake is classified as a Recreational Development Lake with a minimum lot size requirement of forty-five thousand square feet of lot area and a width of one hundred and fifty feet. All the proposed lots are riparian lots which front on Gull Lake. All lots will have access to the existing public roadway named South Gull Lake Road Southwest.

**Motion was made by Ralph Morris to recommend final approval of the proposed plat, Playa Del Norte Addition to the Beltrami County Board of Commissioners. Doug Underthun seconded the motion. Chairman called for further discussion. There was no further discussion. Chairman called for roll call vote. Voting on the motion to recommend final approval of the proposed plat Playa Del Norte Addition to the Beltrami County Board of Commissioners:**

<b>Ralph Morris</b>	<b>Yes</b>
<b>Ed Fussy</b>	<b>Yes</b>
<b>Don Hazeman</b>	<b>Yes</b>
<b>Doug Underthun</b>	<b>Yes</b>

**Motion carried and approved 4 to 0.**

**NEW BUSINESS:**

**None**

Copies of the minutes had been made by the Environmental Services Director and members were reviewing the meeting minutes. **Ralph Morris moved to approve the April 26, 2010 Meeting Minutes. Seconded by Doug Underthun. Chairman called for roll call vote. Roll call vote was unanimous.**

Chairman stated the next meeting would be June 28, 2010.

Board members indicated they had discussed when the Environmental Services Director had been out of the room making copies of the April 26 Meeting Minutes, that if there is a light agenda, they would rather start at 6:00 and get out earlier. It was noted it would be up to the discussion of the Environmental Services Director as to letting the Board Members know what the time would be. **Chairman stated he was prepared for a motion to adjourn. Ralph Morris moved to officially adjourn the May 24, 2010 Beltrami County Planning Commission Public Hearing. Motion seconded by Ed Fussey. Chairman called for roll call vote. Voting was unanimous. Motion passed 5 to 0. Chairman called the Public Hearing for May 24, 2010 officially adjourned.**

Respectfully submitted,

---

William J. Patnaude  
Beltrami County ESD Director

---

Michael Haws, Chairperson  
Beltrami County Planning Commission

**Beltrami County Planning Commission Special Meeting  
Minutes for Monday, July 12, 2010  
Administrative Services Center  
First Floor – County Board Room, Suite 102  
701 Minnesota Avenue NW  
Bemidji, Minnesota 56601**

**General Business**

Members present: Doug Underthun  
Michael Haws  
Don Hazeman  
Ralph Morris  
Ed Fussy  
Commissioner Jack Frost

Members Absent: Ray Dalby

Others Present: William Patnaude, Beltrami County Environmental Services Director  
Matt Murray, Murray Surveying, 304 – 3<sup>rd</sup> St. NW, Bemidji, MN 56601  
John Huderle, 459 Adams Ave NW, Bemidji, MN 56601  
Lillian Huderly, 3629 Division Street W, Bemidji, MN 56601

Chairman, Michael Haws, called the Beltrami County Planning Commission Special Meeting on July 12, 2010, officially to order at 8:00 p.m. in the County Board Room, County Administration Building, Suite 102, at 701 Minnesota Avenue NW, Bemidji, MN 56601. First order of business was introductions of Planning Commission members to the public. Chairman asked if the meeting process needed to be explained because the only people in attendance were Matt Murray of Murray Surveying and John Huderle and his sister, Lillian Huderle. Meeting process was dispensed with.

Chairman, Michael Haws, stated the Meeting Minutes for May 24, 2010 had been sent out in advance and asked if there were any additions or corrections to those minutes. **Ralph Morris moved to officially approve the draft minutes of May 24, 2010. Motion seconded by Don Hazeman. Chairman called for roll call vote. Motion carried and approved 4 to 0.**

**Board of Adjustment**

**OLD BUSINESS:**

None

**NEW BUSINESS:**

None

**Planning Commission**

**OLD BUSINESS:**

None

**NEW BUSINESS:**

**Proposed Plat Request:**                    **John & Betty Huderle**  
459 Adams Avenue NW  
Bemidji, MN 56601  
Township:                                        Grant Valley  
Proposed Plat Name:                         D and R Subdivision

**The Purpose of:**

Subdividing approximately 33 acres into nine lots. The proposed area to be platted currently comprises six existing parcels which will be reconfigured and five new parcels will be created. No new roads are proposed. Construction activities will take place as each lot is purchased and developed.

**Legal Description:**

Tax Parcels 15.00259.00, 15.00259.01, 15.00259.02, 15.00260.00, 15.00263.01, 15.00263.02

Part of the southeast quarter of southeast quarter (SE ¼ SE ¼ ) Section Twelve (12, Township One Hundred Forty-six (146) North, Range Thirty-four (34) West; and Part of the Northeast Quarter of Southeast Quarter (NE ¼ SE ¼ ), Section Twelve (12), Township One Hundred Forty-six (146) North, Range Thirty-four (34) West. This is a partial legal description. Full legal description is available at the Beltrami County Environmental Services Department.

At this point of the meeting, Planning Commission Member, Doug Underthun, asked for an opportunity to speak. Chairman, Michael Haws, gave the floor to Doug Underthun. Doug indicated that he is involved in a property transaction in the proposed plat of D and R Subdivision and therefore, because of this, he is going to reclude himself from any discussion or action on the proposed plat. Chairman, thanked Doug for bringing that to the attention of the Planning Commission and stated that he granted Doug Underthun permission to remove himself from the podium and sit in the audience and reclude himself from any action to be taken on this proposed plat.

Environmental Services Director asked to speak and the Chairman granted him the floor. Environmental Services Director, William Patnaude, stated he had discussed with Mr. Murray that because of the simplicity of the proposed plat, D & R Subdivision and Mr. Matt Murray had prepared both a preliminary and a final plat to be presented to the Planning Commission.

Chairman, Michael Haws, asked if there was anyone present this evening representing the proposed plat D and R Subdivision. Matt Murray of Murray Surveying came forward and indicated he was here this evening on behalf of John and Betty Huderle. Chairman asked if the Grant Valley Town Board had reviewed the proposed plat. Environmental Services Director, William Patnaude, pointed out they had

received correspondence from the Grant Valley Town Board giving their approval of the layout of the proposed plat. Chairman, Michael Haws, stated in reviewing the proposed plat, he had some questions. He asked Mr. Huderle if he envisioned any flooding issues. Mr. Huderle, owner of the property, stated it never came during the high water years and never came as high as what they marked as wetland on his property. There are culverts to the wetland and culverts underneath Division Street to the other wetland on the south side of the road. Chairman asked about the gravel pit. Mr. Huderle indicated he did have an area of depression in the gravel pit that was manmade and through being able to acquire fill dirt from the pipeline company during the recent pipeline construction, he has been re-landscaping that area but the area was not a wetland area.

Beltrami County Commissioner, Jack Frost, questioned Mr. Huderle about access restrictions to the property to the west. It was pointed out that the property to the west, which is outside of the plat, does have access out to Division Street with the existing approaches and that the property to the west and the plat of question has access via private driveways off of Adams Avenue or C.S.A.H. 11.

Matt Murray pointed out there are no proposed new roads to be developed. Commissioner Jack Frost asked about access for Lot 1. It was pointed out again that access for Lot 1 is via a private driveway that enters onto C.S.A.H. No. 11, Adams Avenue NW.

Chairman, Michael Haws asked if there were any further comments from Planning Commission members. At this point in time they indicated there were none. Chairman then stated he was going to open it up for public comment. Chairman made the statement three times. There were no comments from the public. Therefore, the Chairman moved to close the public comment period on the proposed plat, D and R Subdivision.

**Chairman, Michael Haws, stated he was ready to entertain a motion on the proposed plat. Ralph Morris moved to grant preliminary and final approval of the proposed plat D and R Subdivision subject to the developer does have to adhere to the Beltrami E-911 emergency services access issues. Don Hazeman seconded the motion. Chairman called for any further discussion. There was no further discussion. Chairman, Michael Haws asked for clarification on the motion. Was the motion for both for preliminary and final recommendation to the County Board of Commissioners? Ralph Morris stated that is correct, that he is granting preliminary approval with preliminary plat and he is making the recommendation to the Beltrami County Board for final approval of the proposed plat D and R Subdivision. Chairman called for roll call vote. Voting on the motion:**

<b>Ed Fussy</b>	<b>Yes</b>
<b>Ralph Morris</b>	<b>Yes</b>
<b>Don Hazeman</b>	<b>Yes</b>
<b>Michael Haws</b>	<b>Yes</b>

**Noted, for the record, that Doug Underthun had recused himself from any action on the proposed plat.**

**Chairman stated that completed all the business items on the agenda for July 12, 2010. Chairman stated he was prepared to entertain a motion to adjourn. Ralph Morris moved to officially adjourn the July 12, 2010 Special Meeting of the Beltrami County Planning Commission. Motion seconded by Doug Underthun. Chairman called for roll call vote. Voting was unanimous. Motion**

**passed 4 to 0. Chairman called the Beltrami County Planning Commission for July 12, 2010 officially adjourned. Next meeting will be August 23, 2010.**

Respectfully submitted,

---

William J. Patnaude  
Beltrami County ESD Director

---

Michael Haws, Chairperson  
Beltrami County Planning Commission

**Beltrami County Planning Commission  
Board of Adjustment Public Hearing  
Minutes for Monday, August 23, 2010  
Administrative Services Center  
First Floor – County Board Room, Suite 102  
701 Minnesota Avenue NW  
Bemidji, Minnesota 56601**

**General Business**

Members present: Doug Underthun  
Michael Haws  
Don Hazeman  
Ralph Morris  
Ed Fussy  
Ray Dalby  
Commissioner Jack Frost

Others Present: William Patnaude, Beltrami County Environmental Services Director  
Tim Faver, Beltrami County Attorney  
Janet Listebarger, 3794 Fern Lake Rd SW, Bemidji, MN 56601  
Bob Hiltz, 1713 Fern Lake Rd SW, Bemidji, MN 56601  
Tom & Thereasa Winch, 5539 Beltrami Line Rd SW, Bemidji, MN 56601  
Mary Ann Steele, 5896 Leonardway Rd SW, Bemidji, MN 56601  
John & Lois Egelhof, 6879 Beltrami Line Rd SW, Bemidji, MN 56601  
Dan & Jen Rockensock, 5888 Leonardway Road SW, Bemidji, MN 56601  
Troy Paskvan, 1387 Summer CT NW, MN 56601  
Roger Paskvan, 3516 Mill Street NE, Bemidji, MN 56601  
Katherine Dreher, 1387 Summer Ct NW, Bemidji, MN 56601  
Blake Edwards,, 6483 Beltrami Line Rd SW, Bemidji, MN 56601  
Jeremy Vogel, 4122 Woodberry Dr SE, Bemidji, MN 56601  
Kelly Booge, 208 – 4<sup>th</sup> Street NW, Bemidji, MN 56601  
Bruce Kaehne, 3695 River Crossing Rd SW, Bemidji, MN 56601  
Jan Hunt, 5037 Leonardway Rd SW, Bemidji, MN 56601  
Mary Peterson, 3354 Fern Lake Rd SW, Bemidji, MN 56601  
Mel Spies, 9517 Chad Dr NW, Bemidji, MN 56601  
Bonnie Cook, 4376 Sportsman Rd SW, Bemidji, MN 56601  
Jan Hunt, 5037 Leonardway Rd SW, Bemidji, MN 56601

Chairman, Michael Haws, called the Beltrami County Planning Commission/Board of Adjustment Public Hearing for August 23, 2010, officially to order at 6:30 p.m. in the County Board Room, County Administration Building, Suite 102, at 701 Minnesota Avenue NW, Bemidji, MN 56601. First order of business was a welcome to all those in attendance. The Chairman than asked for introductions of Planning Commission members to the public. Board members introduced themselves. Also, the two newly hired Environmental Resource Technicians for the Environmental Services Department, Brent Rud and Chris Parthun, introduced themselves to the Board and the audience. Chairman then asked the Environmental Services Director to explain the meeting process.

Next item was the review and approval of the July 12, 2010 Meeting Minutes. Chairman, Michael Haws indicated that he had reviewed the minutes and found them to be in order and was prepared to entertain a motion for approval. **Ralph Morris moved to officially approve the minutes of July 12, 2010. Motion seconded by Don Hazeman. Chairman called for roll call vote. Motion carried and approved 5 to 0.**

## Board of Adjustment

Chairman then stated there were two items before the Board of Adjustment this evening. That was the request of Jim Eickhorst of Kohl's Resort. Chairman asked if the Environmental Services Director had an announcement. Environmental Services Director, William Patnaude, explained to the Board and members of the audience that due to a technical misstep, Mr. Eickhorst has been asked by the Beltrami County Board of Adjustment to officially withdraw his application and to submit a new application for the September meeting. Environmental Services Department Director, William Patnaude, explained that there was the need of a Conditional Use Permit for the re-zoning of the property and that had not been submitted and the error was caused by the Environmental Services Director, himself, and took full responsibility for it. Mr. Eickhorst agreed to withdraw his application hence, there forth, stopping the Minnesota Statute 1599, 60 Day Rule.

### OLD BUSINESS:

None

### NEW BUSINESS:

#### **Variance Request:**

**Jim Eickhorst**  
**Kohl's Resort**  
15707 Big Turtle Drive NE  
Bemidji, MN 56601  
Turtle Lake  
Big Turtle

Township:

Body of Water:

#### **The Purpose of:**

Obtaining a Variance Permit to remove an existing older cabin and replace it with a new duplex unit containing 6 bedrooms constructed under one roof with a proposed roof height of 25 feet. Proposed structure will have a setback of 75 feet from the ordinary high water mark of Big Turtle Lake (4-159). Big Turtle is classified as a Recreational Development Lake with a required setback of 100 feet from the ordinary high water mark in accordance with the Beltrami Count Shoreland Management Ordinance No. 6.

#### **Legal Description:**

Tax Parcel 47.00797.00  
Lots Three (3) and Four (4), Block Two (2), Sunset View Chalet

Chairman then stated they were moving on to the Bradley and Pamela Carlson Variance Request. Chairman asked the Environmental Services Director if he had announcement on this request.



**Legal Description:**

Tax Parcel 03.00098.00

Part of the Southeast Quarter (SE ¼ SE ¼), Section Eleven (11), Township One Hundred, Forty-six (146) North, Range Thirty-three (33) West. This is a partial legal description. Full legal description available at the Beltrami County Environmental Services Department.

Chairman asked if there was anyone present this evening representing the Conditional Use Request. Roger Paskvan came forward and introduced himself. Mr. Paskvan stated he is the owner of the Paskvan Industries and he is here before the Planning Commission this evening to request a Conditional Use Permit for the construction of a new telecommunications tower located on his property on the area commonly referred to as Tower Hill. Mr. Paskvan pointed out there would be the need of a new tower approximately 350 feet in height and that this tower would be used by A T & T for the purpose of a new cell site. Mr. Paskvan went on to talk about the packet of detailed information he submitted with his application especially in regard to the fact of dealing with the required search for compatible towers. He explained there had been the engineering study on the Midcontinent Tower. Approximately \$7,000 had been spent and it was found that tower could not take on the A T & T dish due to fact there would be an overlap on cell phone coverage. This would disrupt the 4-G network that is being brought in. If the new dish, A T & T is proposing would go on this tower, it would result in dropped calls. Mr. Paskvan pointed out that his existing tower had a stress analysis done on that tower and found out there is not adequate spacing nor is there load capabilities on that tower for additional antennas. Mr. Paskvan did not want to get into the tower construction business but A T & T approached him and stated if he would build the tower, they would sign a twenty year lease. Mr. Paskvan pointed out that on Tower Hill he owns approximately 11 acres of property.

Chairman, Michael Haws, asked Mr. Paskvan if there is lease language contained in the submittal of material. Mr. Paskvan stated that is correct. It is stated that the Beltrami County Tower and Wind Ordinance does require if co-location is feasible that co-location is supposed to be permitted by the Tower owner. Mr. Paskvan pointed out that as a minimum; there would be two other cell sites possibly on the tower.

Planning Commission Member, Ralph Morris, asked that therefore, since you are going to build this new tower could you not take down the tower that you have at present. Mr. Paskvan pointed out that is correct, however, there would be additional expenses. There are three TV station dishes on my existing tower at present. It would take about \$50,000 and the economics are such that it just doesn't make sense to have to remove that tower. That tower was put up at that time by A T & T or Bell Telephone in 1956.

Mr. Morris pointed out that he already is able to observe a tower in the evening hours on his property. Mr. Paskvan responded that none of his towers are strobe. There was then discussion with Mr. Paskvan about the engineering study in regard to the requirement should the tower collapse. Mr. Paskvan stated that in the packet of information he did provide, there was an engineering study stating the tower, as designed, would fold in the middle and fall upon itself. Question was asked about the tower location. Mr. Paskvan pointed out the tower location is at the top of the hill which is directly east of Olympic Hills Estates Subdivision and is in Bemidji Township.

Chairman asked if there were any other comments from the Planning Commission. It was indicated, at this time, there were no other comments. Chairman then asked for the documents to be read into the record that had been received on the request. With that, Chris Parthun of the Environmental Services Department read into the record a letter from the Joint Powers Board signed by Mel Milender, Administrator for the Bemidji Area Joint Powers Board. The second letter was from Jane Mueller, E911

Addressing. The third letter was from Rick Osmundson who was concerned about property values and the effects of the proposed tower. It also raised questions about the number of towers on Tower Hill. Mr. Paskvan responded by saying that for 30 years there have been no new towers on the property that he owns. He stated there are approximately four towers and Ottertail is in the process of eventually dismantling their existing tower. Mr. Paskvan pointed out the towers that are present on the property right now were built in 1960 and 1956.

Planning Commission Member, Don Hazeman, asked what the height of the new tower would be. Mr. Paskvan stated the proposed height of his new tower is 350 feet. The State MNDOT tower is 180 feet and the Ottertail Power Company tower is 299. My 1956 tower which was put up by Bell Telephone is 400 feet.

Planning Commission Member, Jack Frost, stated Mr. Osmundson's letter talks about health effects but he was asking if there are ill effects for people and livestock in the vicinity of telecommunication towers. Mr. Paskvan pointed out the closest location of any home from the tower area is approximately 1000 feet and radiation is not an issue with cell phone towers. Cell phone transmissions are approximately 200 watts. The big issue is when you start getting into TV stations which are at 10,000 – 20,000 watts. Also, cell towers are usually isolated from general population.

Ralph Morris asked about the life span of the 1956 tower. Mr. Paskvan responded that this is not a tubular type tower like the towers which are being constructed today. This was constructed in 1956. It's angle iron with galvanized steel. A T & T engineers reviewed the tower and said it is still structurally sound and should last for another 20 to 30 years.

Chairman, Michael Haws, asked when the Ottertail Power Company tower was constructed. Mr. Paskvan stated that tower was erected in 1996. Chairman, Michael Haws, asked if Planning Commission Members had any more comments. Planning Commission Members stated that at this point in time they were satisfied with the application and the responses from Mr. Paskvan. Chairman the opened it up for public comment. Chairman stated this two more times. Chairman asked the secretary to note that it was announced three times and there was no response from the audience. Therefore, the Chairman moved to close the public comment period on the Conditional Use Request of Roger Paskvan.

Chairman then brought it back before the Planning Commission. Planning Commission member, Jack Frost, stated with all the portable communications today, what about satellite communications and phones. Roger Paskvan responded to Mr. Frost that he doesn't see satellite phones coming into effect for probably 5 to 20 years. Mr. Paskvan stated the reality with the OSHA power level right now we're talking about 3/10 of a watt for cell phones and you are talking about trying to beam off a satellite 300 miles in outer space. He stated that he has used a satellite phone and that they are big and bulky and they have huge antennas and if you brought one into this building it would not have any reception. He stated when you go into a building you get no reception, they are very expensive but they are excellent to be used in isolated areas such as Desert Storm. Don Hazeman stated to the Chairman that he would like to say that everybody thinks Onstar is satellite but it is not. He stated he thought it was but when he was up in Yukon Territory in Canada he had no cell phone coverage. When he finally got a hold of Onstar he found out because there was no cell phone coverage, there was no capability of Onstar to hook up with him.

Planning Commission member Jack Frost asked if these towers were going to be obsolete in 15-20 years. Mr. Paskvan stated he did not believe so. He said if you look at what A T & T is investing in cell sites throughout the United States that he does not believe so.

Chairman asked if there was any further discussion by the Planning Commission. If not he was prepared to entertain a motion on the Conditional Use Request of Roger Paskvan. **Motion was made by Don Hazeman to grant the Conditional Use Permit as required by Beltrami County Ordinance No. 35 for the construction of a new telecommunications tower to be constructed at a height of no greater than 350 feet.**

**FACTORS CONSIDERED IN GRANTING CONDITIONAL USE PERMITS FOR TOWERS:**

	YES	NO
A. Height of the proposed tower facility 350 feet	X	<input type="checkbox"/>
B. Capacity of the tower structure for additional antenna equipment to accommodate expansion, or to allow for co-location of other provider’s equipment	X	<input type="checkbox"/>
C. Proximity of the tower to residential structures and residential district boundaries  Closest residential structure is 1000 feet away	X	<input type="checkbox"/>
D. Nature of uses on adjacent and nearby properties Tower Hill. There are other owners of towers in that vicinity Otter Tail Power Company & State of Minnesota	X	<input type="checkbox"/>
E. Surrounding topography The towers are located on the highest point which is referred to as Tower Hill.	X	<input type="checkbox"/>
F. Present and surrounding tree coverage and foliage There are already existing towers on the property so therefore it should not be a site pollution problem.	X	<input type="checkbox"/>
G. Design and sitting of the tower, with particular reference to design characteristics and location that have the effect of reducing or eliminating visual obtrusiveness	X	<input type="checkbox"/>
H. Proposed ingress and egress It has already been indicated there will be adequate ingress and egress to the property.	X	<input type="checkbox"/>

- I. Availability of suitable existing towers and other structures as discussed in other sections of this ordinance X

This has been studied and Mr. Paskvan has provided information to that effect that is being proposed for the A T & T cell tower could not be placed on any other of the towers in the vicinity.

- J. Level of adherence to the provisions set forth in Section 1 of this ordinance and the adopted tower policy statement X

Mr. Paskvan has proven that he has met the full requirements of proof of siting for this new tower as in accordance with Section 1 of the Beltrami County Tower and Wind Ordinance No. 35.

**Ray Dalby seconded the motion. Chairman called for roll call vote. Voting on the motion:**

<b>Ed Fussy</b>	<b>Yes</b>
<b>Doug Underthun</b>	<b>Yes</b>
<b>Ray Dalby</b>	<b>Yes</b>
<b>Don Hazeman</b>	<b>Yes</b>
<b>Ralph Morris</b>	<b>Yes</b>

**Motion carried 5 to 0.**

<b>Proposed Plat Request:</b>	<b>Melvin Spies</b>
	9517 Chad Drive NW
	Bemidji, MN 56601
Township:	Grant Valley
Proposed Plat Name:	Hunters Point

**The Purpose of:**  
 Proposing to subdivide approximately 40.2 acres into fifteen (15) single family residential lots, located in Section Thirty-four (34), Township One Hundred Forty-six (146) North, Range Thirty-four (34) West, Grant Valley Township as in accordance with the Beltrami County Subdivision Controls Ordinance No. 5.

**Legal Description:**  
 Tax Parcel 15.00561.00  
 The Southeast Quarter of the Northeast Quarter (SE ¼ NE ¼), Section 34, Township 146 North, Range 34 West.

Chairman asked if there was any one present representing the proposed plat. Kelly Booge of Freeberg & Grund Engineering came forward, introduced himself and stated he was there on behalf of Mr. Spies this evening and that Mr. Spies was also in attendance.

Chairman, Michael Haws, pointed out that in some of the documentation that had been submitted by the applicant, there had been names that had been crossed out and wanted that to be clarified as to why that

was done. Mr. Booge responded there was an original name for the plat and that name was approved by the County Recorder but in further checking it was found out there was too many similarities to other recorded plats. Therefore, after Mr. Spies discussed it with Mr. Booge, he decided to change it to reflect more of the nature of the property and that is why it is called Hunters Point.

Chairman, Michael Haws, asked about the driveway to the north which is shown on the property of Mr. Spies. Kelly Booge explained that Mr. Spies had approached the owner to the north and asked him if he was willing to participate with a new public road that Mr. Spies would be willing to partake in the construction costs. That new owner declined and he had an idea there was an alternate route into the former Bowman property and that individual who was contacted was a trustee of the estate.

Beltrami County Attorney asked the Chairman if he could provide some information. County Attorney, Tim Faver, stated regardless of the road issue, it is going to cloud the title. It is an unrecorded easement and there should be a Quit Claim Deed, deeding out all interests of that roadway. It was pointed out that Mr. Spies did have title insurance for the property. Michael Haws asked about letters received especially from the township because it was not very clear as to what the township's position was and indicated they had met with the developer and the developer's representatives and had approved the concept. There was some language in their letter regarding discussion of storm water design and also about ingress/egress for particular lots. Chairman asked about the storm water design. Beltrami County Environmental Services Director, William Patnaude, pointed out there was a storm water management plan prepared by Freeberg & Grund and that was submitted as part of the requested material in the application. Mr. Booge stated the storm water design was landscaped into a residential setting.

Jack Frost asked what the calculated rainfall event was; 1 inch, 2 inch or 3 inch event. Mr. Booge responded he was not the engineer for the design of the storm water plan. Therefore, he could not answer that question. Mr. Booge did state that in his discussions with the Grant Valley Town Board, they were looking at 50 and 100 year events. He stated he had also been out to the property purposely to review the site during heavy rainfall events. Because there is no outlet on the property, he did see where rainwater would stand for a period of time but then it was gone. He also indicated in the discussion with the township, the township is concerned about the drainage and there is an agreement with the township in regard to doing some work on Sportsman Road.

Doug Underthun asked also about the driveway to the north. He stated he felt it was very imperative the developer follow up with the Quit Claim Deed as the County Attorney had outlined. Mr. Booge concurred with that. Mr. Booge also indicated that he met with Grant Valley Town Board, August 9, 2010.

Chairman asked regarding Sportsman Road, if the 33 feet shown on the proposed plat going to also be dedicated to the Grant Valley Board. Mr. Booge indicated that is indeed what the developer intends to do. He then went on to explain the letter that had been submitted from Beltrami Electric and their blanket easement on the 40 acres. Mr. Booge indicated he had been working with Beltrami Electric utilities to actually be able to designate dedicated easement and not have a blanket easement on the 40 acres.

Chairman, Michael Haws asked if there were any further discussion by the Planning Commission. If not, he was prepared to open it up for public comment. Planning Commission members they had no further discussion at this time. Chairman then stated he was opening it up for Public Comment.

First individual to come forward was Dan Rockensock of 5888 Leonardway Road SW. Mr. Rockensock stated he was concerned about the spring watershed and the fact of the diverting the drainage with the housing development which is going toward the Mississippi River now and would divert it toward Fern Lake to the east. Mr. Rockensock distributed documentation showing where township culverts were located and where individual houses are located including his own. The material that he submitted went up on the screen so all the people in the audience as well as the Planning Commission could see it. The material showed Fern Lake, where Mr. Rockensock's home is, showed that he had used a GPS hand held instrument and had GPS'd the elevation at his home of being 14.9 and the elevation of the lake being 14.54. Some of the other elevations he was showing on over the plat area were 14.37 which would mean that was 7 foot lower than Fern Lake. He went on to state he was concerned about the groundwater and the surface water and was very concerned the drainage had not been adequately addressed. He felt any development with 15 homes on this 40 acre tract would divert a large amount of surface water toward him and his neighbors as well as into Fern Lake causing lake ponding and flooding. He went on to point out that the Bowman Farm which is the property where the driveway that is on Mr. Spies property right now provides ingress/egress is very swampy. In fact, in digging goose blinds up in that area, they found out that after a couple of feet, the goose blinds would cover up with water. He also felt there needed to be an independent study done of the surface water drainage and that study should not be done by Freeberg and Grund but by an outside firm. He stated he was involved in sandbagging at Tyler Estates and he also helped sandbag at Fern Lake. He said he does not want to see a repeat of Tyler Estates with this proposed development and 15 homes will definitely create a problem. Planning Commission thanked Mr. Rockensock for coming forward and providing the information.

It was at this point in time that Janet Listebarger at 3794 Fern Lake Rd SW came forward. She talked about living on the east side of Fern Lake. She said she can see that this proposed development will definitely have an effect on the neighbors. She is concerned about the groundwater issues. She said that spring water thaw and with heavy rains, there is ponding on the property. The ponds that are being proposed are a good idea but she said that she does not agree that the water drastically disappears. The water does move into the ground water and does move into Fern Lake. She stated there is going to be waters coming from the construction site, from fertilizers, as well as the 15 onsite septic systems that will be positioned on this property with the new homes. She said Fern Lake is a small environmental lake, approximately 200 acres in size and does not have the capability to recharge itself. The deepest point in the lake is 10-12 feet. The rest of the lake is very shallow. She stated a couple of years ago the lake basically froze out. She said the road east of the lake had to be raised. Problems continue with drainage into Fern Lake. The reason the road had to be raised was due to the fact of seasonal flooding. She talked about the research study that was done by Dr. Pat Welle and Dr. Charlie Parsons regarding water clarity and the fact that water clarity is tied in with the value of the property. She stated that area of Grant Valley Township is very rural in nature and that any time of development of this scale is definitely going to change the neighborhood and change the way of life. She said she is very upset with the Grant Valley Town Board and she is very opposed to this proposal and she does plan on going to the Grant Valley Town Board's next meeting. She stated she is disgusted with her township officials that they did not enact a five acre minimum lot size.

Next to come forward was Mary Ann Steele, 5896 Leonardway Road SW. She said she cannot believe 15 homes are being proposed. She said the cul de sac proposed in the plat is not large enough for emergency service vehicles. She has talked to a few people and they have indicated that the cul de sac needs to be much larger. She stated Fern Lake is spring fed. There is no inlet or outlet. She said she felt the neighborhood had been hoodwinked by Mr. Spies because when he bought the property, he had indicated there was not going to be any development. She talked about the driveway into the Bohman property and stated that has been there for over 100 years. When she bought her property 36 years ago,

the City of Bemidji lights were barely visible. At that time there were only two traffic lights in Bemidji. She said we just cannot keep on building a housing development in every single place. Right now there is no market. She said Gerald Miller has had problems with surface water. She said that Kelly states water doesn't stay very long. She absolutely disagrees with that statement. She said a few houses would probably make more sense than 15. She would like to see Mr. Spies go from 15 to 5. She is also very concerned with what was raised by Mr. Rockensock in regard to the flow being diverted from the Mississippi River and being directed over to Fern Lake.

Next speaker to come forward was Mr. Thomas Winch, 5539 Beltrami Line Road SW. Mr. Winch was very upset but he was composed. He started out with a couple of accusations and stated he was very upset for having to deal with Melvin Spies. He said this man has lied to him and he is very concerned about his drinking water and about the water shed in and around Fern Lake. The land that I am on right now is my house with my father's house. No way is my wife and I ever going to develop our property. I farm this area and I want it to stay rural in nature. The house that Mr. Spies has on this 40 acre tract of land was built probably in the 1940's. There have been various additions placed on this house. This house should be inspected. The basement has been flooded and I know that for a fact. Again, being very emotional Mr. Winch concluded his statement and sat down.

Next individual to come forward was Blake Edwards, 6483 Beltrami Line Road SW. He said that he presently has the farm on the west side, approximately 300 acres. He is having trouble right now with 4-wheelers going through his hay fields and dogs chasing wildlife. With this proposed development, there are going to be 15 homes, there are going to be two cars per home, that will be 30 cars, and of course they are going to have dogs. In regard to Sportsman Road, he stated, with the spring breakup, that road does become almost impassable and every year the gentleman that owned the property had to be pulled out. He also talked about snow drifts. He said that road is notorious for having large snow drifts and one time they had to bring in a snow blower to break the up the drifts. He, too, is very concerned about the surface water drainage.

The next speaker was Melvin Spies who stated he bought the property in 2008. He bought the property because of the high ground. His background is in forestry. He said there were not that many trees on the property and he is the type of individual that does not like to see forest stands cut down for housing and felt that the best use for this property was housing. He said there are residents here this evening that have been longer standing residents in Grant Valley Township and have years over me. He stated he does believe in preserving wilderness and green space. He stated he doesn't think the green space of the beautiful area should be destroyed. He stated he has a 40 acres tract that basically has hay fields and is well drained and he intends to do a quality development. He stated he did not go for minimum lot size of 1.03 acres. I went with lots of 2.3 to 2.5 acres in size. Mr. Spies stated he knows the economy is slow right now and does not perceive 15 houses overnight. He does plan on having covenant restrictions on the property which will regulate the floor space, minimum size and other restrictions. Kelly and I have met with the Town Board and we have not addressed all of the township road issues but we have been in discussion with the township since February of 2010. He stated he has been participating with the township about road improvements, the cost of redesign, and reconstruction of the roads.

Planning Commission Member, Don Hazeman, asked in regard to Leonardway SW if that was the main way into Bemidji and if so, how far was it to the closest tar road. Mr. Spies responded that it is approximately 1 1/2 miles to the closest tar road which is Beltrami Line Road and is referred to as CSAH #48. Mr. Spies went on to say he felt this is livable space and people here this evening do have a right to their opinions but that he is doing a quality development and is totally satisfied with everything Freeberg and Grund has done at this point in time. In regard to the blizzards and the large drifts in the extreme

southeast corner of Sportsman Road, Mr. Spies stated, the township with his permission, put in snow fence on the property and the Town Board said this has actually helped. He stated with his new development he is also going to be participating with the Grant Valley Township to cut down the hill to improve drainage on the existing Sportsman Road because the drainage does go eventually somewhere and it does go towards Fern Lake. Mr. Spies stated he too is concerned about the lake.

In a statement in regard to public safety, the Chairman asked Mr. Patnaude to clarify that. Mr. Patnaude stated that the Sheriff's Department had sent a letter in regard to the need for a permit cul de sac. Mr. Patnaude pointed out that the Subdivision Controls Ordinance does allow for the construction of a temporary T-turnaround in areas where it looks like the adjacent property could also have a potential for future development. The Chairman asked the procedures for an Environmental Assessment Worksheet (EAW). It was pointed out by the Environmental Services Director that conversion of forestry land of 80 acres or more requires a mandatory EAW. The development of 50 unattached homes or 50 single family residential lots would also trigger a mandatory EAW. There is a petition process for a discretionary EAW but it should be pointed out that the questionnaire the developer prepares and submits is the same questionnaire that is used in the 32 questions with the State Environmental Quality Board.

Mary Ann Steele came forward and stated she was very concerned about 15 septic systems on the property. She appreciated the fact that Mr. Spies is a forester but that he is changing the whole area with this development. The area around and near the plat is still being farmed.

Don Hazeman responded by saying the developer is following all the regulations and that the developer could actually put more lots on this property. Mary Ann Steele responded that the Town Board should have enacted the five acre minimum lot size. She asked Mr. Spies to please rethink this proposal and have five homes instead of 15. She stated there would be runoff issues coming from the roofs of the new homes, driveways, streets, ditches and the roadway.

Chairman, Michael Haws, asked Dan Rockensock about his elevation figures. In looking at them, it appears Fern Lake is actually higher than the property. The property is 7 foot lower than Fern Lake. Mr. Rockensock responded saying he used a hand held GPS.

Mary Peterson, 3354 Fern Lake Road, came forward and stated that she is not close to this development but am over on Fern Lake and right now I am in a dust bowl. She stated she prayed for rain because that is when it cuts the dust down on the east side of Fern Lake. She stated she will not be affected by this development but is worried about the quality of the road and the number of people who are going to be using it. She stated in talking with her neighbor she found out that even 15 homes are not going to bring in enough money to fix the road.

Planning Commission Member, Ralph Morris, stated it was his understanding that what has been said tonight was that the Fern Lake Road was actually raised because of flooding. The response from the audience was that is correct, it was raised 3 to 4 feet.

Commissioner Jack Frost asked if Fern Lake Road is a County Road. The response was it is a Grant Valley Township Road.

Mr. John Egelhof, 6879 Beltrami Line Road SW, came forward and stated he was a little concerned because his letter was not entered into the record. Mr. Patnaude looked through the materials and was unable to find the letter. However, note that on August 24, 2010, Mr. Egelhof's letter was hand delivered to the Environmental Services Department in a closed envelope. Staff thought the envelope

was a part of a bid opening that was going to be held on the 24<sup>th</sup>. In opening the envelope, we found out it was Mr. Egelhof's letter and Mr. Egelhof's letter is entered into the full record.

There were questions, again, about an Environmental Assessment Worksheet. Mr. Rockensock stated again about the winds coming from the northwest, the large snowdrift and the grader would have to grade the road 5 or 6 times a year and that now with 15 new homes, two vehicles per home, would be approximately 30 vehicles, sixty trips per day with those vehicles increased traffic, there are going to be people stuck on the road and have injuries also resulting. The question was raised from the audience is there any way they can stop this development, that they needed to know and what would be the process.

Chairman, Michael Haws, pointed out that you are here this evening at the Public Hearing expressing your views and points but that you need to understand Beltrami County Planning Commission can only work with the rules and regulations that were given. There are personal opinions that have been stated tonight. Those personal opinions need to be stated to your Town Board.

Planning Commission Member, Ralph Morris, stated he understood what they were saying about the rural life being disturbed. He also stated the drainage issue was a big concern of his and he believes the Town Board needs to review this issue. Planning Commission Member, Don Hazeman, stated he is a Town Board Member and has had similar situations happen in his Township and has told the people they need to get involved and come to the Town Board. He stated after one year, those people do not show up. He informed the people that if they were going to have any effect at all, they needed to start with the grass roots with your Town Board. Mr. Hazeman also directed a comment Mr. Rockensock regarding his statement about water not going uphill, that he was showing the water going downhill. Kelly Booge responded from Freeberg & Grund's perspective that with their work the property is higher than Fern Lake. Mr. Rockensock again stated had used a hand held GPS.

Chairman, Michael Haws, asked if there were any further comments from the public. There was none. The Chairman asked again and there was none. The Chairman indicated he was now closing the public comment period on the proposed plat, Hunters Point and bringing it back before the Planning Commission.

Chairman, Michael Haws, asked what the wishes were of the Planning Commission. Ralph Morris indicated he was not comfortable giving this plat preliminary approval tonight because he needed to have more data, especially in regard to the surface water drainage issue. Planning Commission Member, Don Hazeman, stated that the letters from the Town Board were very vague and he was not comfortable with their response nor was he comfortable with the comments that were submitted tonight by the neighbors in regard to the drainage issue. He stated they needed more concrete information before he could make a decision. Chairman, Michael Haws, stated they needed to have the calculations to show the sizing for the storm water management plan for a rainfall event. Mr. Patnaude addressed the Chairman and the Planning Commission Members and stated staff is very frustrated due to the fact you have not elected to choose a standard for Storm Water Management Plans. In some cases you used a one inch rainfall event, a two inch rainfall event and sometimes you choose a three inch rainfall event. He stated staff would really appreciate to get some specific direction from the Planning Commission as to what it is your standard operating procedure would be so staff can provide this to the developers and the developer's engineering. Chairman, Michael Haws, responded to Mr. Patnaude that, that was true but sizing is going to be different from property to property.

Don Hazeman moved to table the proposed plat, Hunters Point until further information could be supplied by the developer, and further, to direct the people that were here this evening to go to the Grant

Valley Town Board and present their concerns. Further, to request the Grant Valley Town Board provide specifically, in writing, their position in regard to the approval or non-approval of the plat and whether they are in agreement with the drainage as prepared and submitted by Freeberg and Grund. These are the main issues which must be addressed by the developer to the Planning Commission.

1. Are the proposed ponds and the drainage easement sufficient in size and what were the calculations used to size those drainage ponds.
2. With the drainage issue addressed tonight, that the drainage is presently going toward Fern Lake, is that correct and if that is correct, is there a way the drainage can be averted into other areas other than toward Fern Lake.
3. The driveway to the north must be addressed with a Quit Claim Deed so all interest is distinguished.

Chairman called for a second to the motion. Ralph Morris stated he had a friendly amendment to offer to that motion but I will second it. The friendly amendment would be that I feel there needs to be addressing of the potential lake flooding effect of this additional surface water. Don Hazeman stated he would accept the friendly amendment. Chairman stated that would be added which it was. With that, Ralph Morris stated he would second the motion by Mr. Don Hazeman with the friendly amendment added. Chairman called for roll call vote. Voting on the motion:

Doug Underthun	Yes
Ray Dalby	Yes
Don Hazeman	Yes
Ed Fussy	Yes
Ralph Morris	Yes

Chairman indicated that the proposed plat, Hunters Point, was officially table and that a letter would be directed to staff to send to the developer and the developer's representatives as to the concerns that were raised tonight that needed to be addressed and that the Planning Commission would be looking at this plat to be placed on the agenda for September 27, 2010.

**Chairman stated that completed all the business items on the agenda for August 23, 2010. Chairman stated he was prepared to entertain a motion to adjourn. Ray Dalby moved to officially adjourn the Beltrami County Planning Commission Public Hearing for August 23, 2010. Motion seconded by Doug Underthun. Chairman called for roll call vote. Voting was unanimous. Motion passed 4 to 0. Chairman called the Beltrami County Planning Commission Public Hearing for August 23, 2010 officially adjourned. Next meeting will be September 27, 2010.**

Respectfully submitted,

---

William J. Patnaude

---

Michael Haws, Chairperson



**Beltrami County Planning Commission  
Board of Adjustment Public Hearing  
Minutes for Monday, September 27, 2010  
Administrative Services Center  
First Floor – County Board Room, Suite 102  
701 Minnesota Avenue NW  
Bemidji, Minnesota 56601**

**General Business**

Members present: Michael Haws  
Don Hazeman  
Ralph Morris  
Ed Fussy  
Ray Dalby  
Commissioner Jack Frost

Members absent: Doug Underthun

Others Present: William Patnaude, Beltrami County Environmental Services Director  
Matt Murray, Murray Surveying, 304 Third Street, Bemidji, MN 56601  
Jamie Listebarger, 4593 Countryside Rd SW, Bemidji, MN 56601  
Brad & Pam Carlson, 210 Northridge Hills CT, Grand Forks, ND 58201  
Tom Winch, 5539 Beltrami Line Rd SW, Bemidji, MN 56601  
Mary Ann Steele, 5896 Leonardway Rd SW, Bemidji, MN 56601  
Kelly Booge, 208 – 4<sup>th</sup> Street NW, Bemidji, MN 56601  
Mel Spies, 9517 Chad Dr NW, Bemidji, MN 56601  
Donna Anderson, 18843 – 23<sup>rd</sup> Street SE, Bemidji, MN 56601  
Gary Otterstad, 2260 E Lake Ridge DR SW, Pillager, MN 56473  
Leona & Zafer Sukkarieh, 1214 Dairy LN NE, Bemidji, MN 56601

Chairman, Michael Haws, called the Beltrami County Planning Commission/Board of Adjustment Public Hearing for September 27, 2010, officially to order at 6:30 p.m. in the County Board Room, County Administration Building, Suite 102, at 701 Minnesota Avenue NW, Bemidji, MN 56601. Chairman, welcomed all those in attendance. The Chairman then asked for introductions of Planning Commission members to the public. Board members introduced themselves. Chairman then asked the Environmental Services Director to explain the meeting process.

Next item was the review and approval of the August 23, 2010 Meeting Minutes. It was pointed out by staff that there had been some minor corrections on page 4. Minutes had been mailed out in advance to Planning Commission/Board of Adjustment Members and those corrections had been noted. **Ralph Morris moved to officially approve the minutes of August 23, 2010. Motion seconded by Don Hazeman. Chairman called for roll call vote. Motion carried and approved 4 to 0.**

**Board of Adjustment**



question was brought up to the Carlson's if they clearly understand this. The Carlson's responded they did understand that it is seasonal use only and were not asking for any type of change.

Beltrami County Environmental Services Director pointed out the system should only be sized for the number of bedrooms in the existing structure and not for future additional bedrooms. The existing structure is a two bedroom structure which would require a 10' x 25' mound treatment area. **Ralph Morris moved to grant the Variance Permit Request of Bradley and Pamela Carlson to construct a new onsite subsurface sewage treatment system for their seasonal cottage located on Big Turtle Lake (4-159). Said system is only to be sized accordingly for the number of bedrooms in the existing structure which is two and therefore cannot exceed a treatment area of 10' x 25'. Ray Dalby seconded the motion. Chairman called for any further discussion. There was no further discussion. Chairman stated he was prepared to do the Findings of Fact.**

### Findings of Fact

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreline Management Ordinance rules?

Yes (x)      No ( )

Why?

It is a seasonal residence and is upgrading the onsite sewer system from a holding tank to a treatment area.

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

Yes (x)      No ( )

Why?

The hardship of having to continually having to maintain the holding tank.

3. Is the alleged hardship due to circumstances unique to this property?

Yes (x)      No ( )

Why?

The lot was created in 1991 in the plat of Cedar Wood prior to the revisions of the Shoreland Management Ordinance No. 6 in 1992.

4. Were the circumstances causing the hardship created by someone or something other than the landowner or previous landowners?

Yes (x)      No ( )

Why?

Creating Lot 7, Cedar Wood that would have required a Variance which would not have been permitted under the 1992 revision.

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

Yes (x)      No ( )

Why?

It is seasonal single family usage. Other seasonal homes and single family residences are in the surrounding neighborhood.

6. Does the alleged hardship involve more than economic consideration?  
Yes (x) No ( )

Why?

Economic hardship was not considered.

If all answers are “yes” the criteria for granting the variance request have been met.

**Chairman stated he was prepared for roll call vote. Voting on the motion:**

<b>Ray Dalby</b>	<b>Yes</b>
<b>Don Hazeman</b>	<b>Yes</b>
<b>Ed Fussy</b>	<b>Yes</b>
<b>Ralph Morris</b>	<b>Yes</b>

**Motion was carried and approved 4 to 0.**

**Chairman stated that completed all the business on the agenda for the Board of Adjustment. Chairman stated he was prepared to entertain a motion for adjournment of the Board of Adjustment Public Hearing for September 27, 2010. Don Hazeman made motion to officially adjourn the Board of Adjustment Public Hearing. Ray Dalby seconded the motion. Voting was unanimous. Motion passed 4 to 0.**

Chairman called the Beltrami County Planning Commission officially to order.

**Planning Commission**

**OLD BUSINESS:**

<b>Proposed Plat Request:</b>	<b>Melvin Spies</b> 9517 Chad Drive NW Bemidji, MN 56601
Township:	Grant Valley
Proposed Plat Name:	Hunters Point

**The Purpose of:**

Proposing to subdivide approximately 40.2 acres into fifteen (15) single family residential lots, located in Section Thirty-four (34), Township One Hundred Forty-six (146) North, Range Thirty-four (34) West, Grant Valley Township as in accordance with the Beltrami County Subdivision Controls Ordinance No. 5.

**Legal Description:**

Tax Parcel 15.00561.00

The Southeast Quarter of the Northeast Quarter (SE ¼ NE ¼), Section 34, Township 146 North, Range 34 West.

Chairman asked if there was anyone present in the audience this evening representing the proposed plat, Hunters Point. Melvin Spies indicated he was here as well as Kelly Booge from Freeberg and Grund. Chairman asked the Environmental Services Director if he could give a quick synopsis of the proposed plat, Hunters Point. Mr. Patnaude explained that due to a property letter dated August 6, 2010, was sent out to all the adjacent property owners as required by State Statute notifying them that the owner/developer, Melvin Spies, 9517 Chad Drive NW, Bemidji, MN, was proposing to plat his 40.2 acres into 15 single family residential lots located in section 34, Township 146 North, Range 34 West, Grant Valley Township as in accordance with the Beltrami County Subdivision Controls Ordinance No. 5.

Upon conducting the Public Hearing on August 23, 2010, there were a number of residents in the audience which came before the Planning Commission to present their reasons why the proposed plat should not be approved. At the August 23, 2010 meeting, the Planning Commission elected to table the proposed plat and direct staff to send a letter to the Grant Valley Town Board. That letter was sent out on August 24, 2010. The purpose of that letter was to express to the Grant Valley Town Board the concerns that were raised by the citizens of Grant Valley Township that were present at the August 23 meeting. The Planning Commission also went on to express to the Grant Valley Town Board they wanted to have more specific written responses by the Town Board as do they approve the plat or do they not approve the plat and is the Town Board satisfied with the preferred Storm Water Plan developed by Freeberg and Grund Engineering. They also talked about the following additional issues that needed to be addressed by the developer.

1. Are the storm water ponds sufficiently designed and what calculations were used in their design.
2. Where is the existing surface water draining to from Spies' property. Will the new development increase the flow
3. Is it feasible to redirect flow toward Fern Lake (4-215)
4. Proof of Quit Claim Deed on the private driveway shown on the preliminary plat to the north that provides access
5. What is the potential lake flooding with additional surface water from the proposed development

Mr. Booge, representing Mr. Spies, indicated he was hand carrying a letter dated September 24, 2010 from the Grant Valley Town Board.

Planning Commission members asked Mr. Patnaude if he had received a letter as of yet. Mr. Patnaude indicated no, that he had not seen this letter. At this time Mr. Booge gave a copy of this letter to Mr. Patnaude. Mr. Patnaude made copies for the Planning Commission. Chairman then reviewed the letter from the Grant Valley Town Board dated September 24 which the Grant Valley Town Board stated that pursuant to the questions posed to the Grant Valley Town Board regarding the plat, Hunters Point, the answers are as follows:

1. Exceeded state guidelines for a 50 year event equals 2 ½ inches in a 24 hour period 1.8 times the MPCA standard.
2. It is in a retaining pond on the property. The property does not increase the flow see answer to #1 above.
3. We do not plan on redirecting flow present. There is no surface flow to Fern Lake or the Mississippi River.

4. The issue is a private issue, does not affect the Town Board.
5. The potential is no greater than it sits today because of the retention ponds that were engineered

The Town Board stated that the road within the plat meets the Town Board specifications and that they do have a signed road agreement between the Grant Valley Town Board and Mr. Spies.

Chairman asked if there was any more discussion from the Planning Commission Members. Planning Commission members indicated they were satisfied that the letter sent out by staff back on August 24, 2010 and the Town Board had responded to that letter dated September 24, 2010. Chairman asked if there was anyone in the audience that wanted to speak. Jamie Listebarger came forward and explained to the Planning Commission that the residents had been out at the Town Board Meeting and that Fern Lake water quality is a big concern. She proceeded to go through the Environmental Questionnaire and she had specific questions in regard to item 7 on page 2, item 10 on page 3 and item 18 on page 6 of the Beltrami County Environmental Questionnaire. She explained that on item 7, there is no mention that the surrounding lands were used for the application of contaminants. Mr. Patnaude pointed out that the County was well aware that the surrounding lands were used for land application of municipal sludge and that was through the permitting and approval of the Minnesota Pollution Control Agency and also the City of Bemidji with the landowners. On question #10 she questioned the physical impacts on water resources. It was explained that on question 10 the reason that is answered no because there is no actual construction, dredging, filling or stream diversion involving the project. There are the storm water retention ponds. The question raised on number 18 on the ground water potential for contamination was why there is a minimum of three feet and that there is greater than six feet. Mr. Patnaude pointed out that due to the different soil structures on the property, there are areas where the distance to groundwater is less than three feet compared to other areas on the 40 acre tract which have greater than six feet to groundwater. Jamie stated she is a lifelong resident in that area and there is new information that has now come to light to the residents out there as to concerns about groundwater flooding and history of adjacent properties. She stated there is a petition underway and hopefully there will be enough signatures and she is going to be getting the petition sent to the Minnesota Environmental Quality Board by September 28, 2010.

Mr. Patnaude reported back to the Planning Commission that as of to date he has not received anything from the MEQB. That completed Jamie Listebarger's statements. She indicated she wished the Planning Commission would put a stop to this and would deny the plat and she felt there was a movement by the Planning Commission to rubberstamp and accelerate this process as fast possible even over the oppositions of the residents in Grant Valley Township.

Chairman brought the matter back before the Planning Commission. Kelly Booge, representing Freeberg and Grund, stated that the driveway easement to the north has not been taken care of but that an attorney is working on that. The new private driveway agreement will be defined with a centerline of 20 foot width and that will be brought to the Planning Commission at their October 25, 2010 meeting.

Mary Ann Steele came forward and stated she was very upset and opposed to the proposed plat and she wished Mr. Spies would not go ahead with his development for it is going to change the area drastically and most of the property owners out there have no desire to develop their property. She, too, asked the Planning Commission to stop the process. The Chairman explained the Planning Commission has a responsibility under the Subdivision Controls Ordinance but does not have County wide land use standards. At this point in time, the Planning Commission's concerns have been addressed by the Grant Valley Board. Chairman stated he appreciated the comments that were made by the residents. However, the process had to go on. Planning Commission member, Don Hazeman, stated you need to

work with your Town Board in getting land use regulations in Grant Valley Township and that the Town Board has satisfied him with the letter dated September 24, 2010 which we have before us tonight. **Therefore, Don Hazeman moved to give preliminary approval to the proposed plat Hunters Point subject to the developer will take care of the issue of the private road easement in getting the Quit Claim Deed taken care of for the October Meeting. Ray Dalby seconded the motion. Chairman called for any further discussion. There was no further discussion. Chairman called for Roll Call Vote. Voting on the motion:**

<b>Ralph Morris</b>	<b>Yes</b>
<b>Ed Fussy</b>	<b>Yes</b>
<b>Don Hazeman</b>	<b>Yes</b>
<b>Ray Dalby</b>	<b>Yes</b>

**Motion carried and approved 4 to 0.**

**NEW BUSINESS:**

**Proposed Plat Request:**                    **Gary Otterstad**  
2260 Lakeridge Drive SW  
Pillager, MN 56473  
Township:                                      Frohn  
Proposed Plat Name:                        Emerald Acres

**The Purpose of:**

To develop approximately 34.7 acres into nine lots and one new roadway. Eight of the lots are riparian with one lot consisting of an existing residence.

**Legal Description:**

Tax Parcels 14.00239.00, 14.00239.06, 14.00240.00

Part of the Northwest Quarter of Southeast Quarter (NW ¼ SE ¼) and Government Lot Two (2), Section Eleven (11), Township One Hundred Forty-six (146) North, Range Thirty-two (32) West, This is a partial description. Full legal description on file at the Beltrami County Environmental Services Department.

Chairman asked if there was anyone present representing the proposed plat, Emerald Acres. Gary Otterstad came forward. Mr. Otterstad and Matt Murray, Murray Surveying who was helping Mr. Otterstad with his presentation, explained the plat; that there is 34.7 acres being divided into 9 lots. Eight of the lots are riparian on Swenson Lake which is a spring fed lake and on Lot 6 there is presently a new home under construction. It was pointed out that in the Storm Water Pollution Prevention Plan, the areas where the drainage easements would be provided on the plat. There was discussion in regard to the County Engineer's letter and the existing road approach to the north of the new proposed road into the plat. Mr. Otterstad indicated the approach, addressed in the County Highway Engineer's letter, was to be removed.

The next issue was the Town Board approval. Mr. Patnaude indicated that nothing has been received from Frohn Town Board as of yet but has been in contact with Frohn Township Land Use Administrator, Jim Baruth. It was indicated that the Town Board has met with the developer and is working through designing a new Road Agreement with the Township and this should be completed prior to the October Planning Commission Meeting. Donna Anderson, Chairman of the Frohn Town

Board was present and indicated that was correct. She also indicated the Town Board is working closely with the developer/owner, Mr. Gary Otterstad.

Mr. Otterstad explained that all the homes are going to be energy efficient and have Geo Thermal systems for cooling and heating. He too understood the Planning Commission's concerns about the vegetative buffer and shelter belt that the Swenson family put along the shoreline of Swenson Lake. In regard to the two wetland areas shown on the plat, Mr. Otterstad stated they are going to stay in existence. There are no plans to do any alteration or changing of those small wetland areas.

Chairman asked if there was any further discussion by Planning Commission members. They indicated there was none at this point in time. Chairman then opened it up for public comment. There was no response. Chairman opened it up two more times. Chairman stated that because there was no public comment coming forward the public comment period on the proposed plat, Hunter's Point, was closed. Chairman stated he was prepared to entertain a motion for preliminary approval. **Ralph Morris moved to grant preliminary approval for the proposed plat, Emerald Acres subject to the developer will have a signed road agreement and a Town Board letter at the next meeting before the plat is presented for recommendation to the County Board for final approval. Ed Fussy seconded the motion. Chairman called for any further discussion. There was no further discussion. Chairman called for roll call vote. Voting on the motion:**

<b>Ray Dalby</b>	<b>Yes</b>
<b>Don Hazeman</b>	<b>Yes</b>
<b>Ed Fussy</b>	<b>Yes</b>
<b>Ralph Morris</b>	<b>Yes</b>

**Motion carried and approved 4 to 0.**

**Chairman stated that completed all the business items on the agenda for September 27, 2010. Chairman stated he was prepared to entertain a motion to adjourn. Ralph Morris moved to officially adjourn the Beltrami County Planning Commission Public Hearing for September 27, 2010. Motion seconded by Don Hazeman. Chairman called for roll call vote. Voting was unanimous. Motion carried and approved 4 to 0. Chairman called the Beltrami County Planning Commission Public Hearing for September, 2010 officially adjourned. Next meeting will be October 25, 2010.**

Respectfully submitted,

---

William J. Patnaude  
Beltrami County ESD Director

---

Michael Haws, Chairperson  
Beltrami County Planning Commission

**Beltrami County Planning Commission  
Board of Adjustment Public Hearing  
Minutes for Monday, October 25, 2010  
Administrative Services Center  
First Floor – County Board Room, Suite 102  
701 Minnesota Avenue NW  
Bemidji, Minnesota 56601**

**General Business**

Members present: Michael Haws  
Doug Underthun  
Ralph Morris  
Ed Fussy  
Ray Dalby  
Commissioner Jack Frost

Members absent: Don Hazeman

Others Present: William Patnaude, Beltrami County Environmental Services Director  
Tim Faver, Beltrami County Attorney  
Matt Murray, Murray Surveying, 304 Third Street, Bemidji, MN 56601  
Kelly Booge, 208 – 4<sup>th</sup> Street NW, Bemidji, MN 56601  
Mel Spies, 9517 Chad Dr NW, Bemidji, MN 56601  
Gary Otterstad, 2260 E Lake Ridge DR SW, Pillager, MN 56473  
Steve Vitcak, 17025 Sitka Drive NW, Pinewood, MN 56676  
Jay Borchert, 17113 Sitka Drive NW, Pinewood, MN 56676  
Tom Adam, 14725 Caribou CT, Pinewood, MN 56676  
Gary McCollom, 17685 Sitka Drive NW, Pinewood, MN 56676  
Jane McCollom, 17685 Sitka Drive NW, Pinewood, MN 56676  
Linda Benson, 16446 Husky Drive NW, Pinewood, MN 56676  
David Benson, 16446 Husky Drive NW, Pinewood, MN 56676

Chairman, Michael Haws, called the Beltrami County Planning Commission/Board of Adjustment Public Hearing for October 27, 2010, officially to order at 6:30 p.m. in the County Board Room, County Administration Building, Suite 102, at 701 Minnesota Avenue NW, Bemidji, MN 56601. Chairman, welcomed all those in attendance. The Chairman then asked for introductions of Planning Commission members to the public. Board members introduced themselves. Chairman then asked the Environmental Services Director to explain the meeting process.

Next item was the review and approval of the September 27, 2010 Meeting Minutes. **Ralph Morris moved to officially approve the minutes of September 27, 2010. Motion seconded by Ray Dalby. Chairman called for roll call vote. Motion carried and approved 4 to 0.**

Chairman called the Beltrami County Board of Adjustment Public Hearing for October 25, 2010 officially to order.

## Board of Adjustment

### OLD BUSINESS:

None

### NEW BUSINESS:

#### **Variance Request:**

**Jay Borchert**

17113 Sitka Drive NW

Pinewood, MN 56676

Township:

Alaska

Body of Water:

Balm (4-329)

**Purpose of:** Requesting a Variance permit to allow the Borchert's to create a three acre parcel with only 260 feet width of shoreline instead of the required 300 feet. The new lot area will contain the required three acres of lot area. Balm Lake is classified as a Sensitive Area Lake with a requirement of 300 feet lot width and a minimum of three acres lot area.

#### **Legal Description:**

Tax Parcel 01.00321.00

Part of Government Lot Two (2), Section Twenty-eight (28), Township One Hundred Fifty (150) North, Range Thirty-five (35) West.

Chairman asked if there was anyone present representing Mr. Borchert's request. Mr. Jay Borchert came forward and stated his address, that he is a resident on Balm Lake located in Alaska Township, that he presently owns a parcel that is a little under seven acres in size, that parcel had originally approximately 200 feet along the shoreline of Balm Lake and that he is in the process of purchasing a cabin from the Dancing Bear Resort which is located north of him. Along with the purchase of that cabin would be an additional 60 feet.

Chairman, Michael Haws, explained to Mr. Borchert that at the work session, the Board Members had reviewed the request and the material that had been submitted with the request. In discussion with staff, were informed that Mr. Borchert had entered into a purchase agreement to buy the property directly south of his property along the lake which is identified as parcel 01.00335.00. Mr. Borchert indicated that was correct and that he had brought with him a copy of the purchase agreement to give to Mr. Patnaude. His proposal would be to address the concerns that he had been made aware of from the Alaska Town Board of the 300 foot frontage and that would be to take 40 feet from the north portion of that parcel 01.00335.00 added to the new proposed parcel A which would bring it into compliance with the 300 foot minimum requirement. Chairman, Michael Haws, stated that is correct, it is a way to meet the 300 foot requirement along the shoreline. However, you would not be able to meet this 300 foot width at the building setback line of the 150 feet of the ordinary high water mark of Balm Lake. Mr. Borchert's response was that is correct, the parcel is quite narrow. Parcel 01.00335.00 contains about 800 foot of shoreline and 1.60 acres of land area. Chairman, Michael Haws, stated that during the work session that Board Members had looked at the proposal and after being provided with the updated

information by Mr. Patnaude that is was the Board's position why not include the entire parcel 01.00335.00 with the new Parcel A.

Board of Adjustment Member, Ralph Morris, stated that with the 40 feet from that parcel, you would be in compliance with the 300 foot but you would still end up with a noncompliant parcel. Board of Adjustment Member, Ralph Morris, asked if the Purchase Agreement Mr Borchert has with him tonight is just for the 40 feet. Mr. Borchert responded that no it was for the entire parcel 01.00335.00.

Chairman, Michael Haws, stated again it is the consensus of the Board of Adjustment that with this request Mr. Borchert needs to include parcel 01.00335.00 in the creation of your Parcel A. He stated the reason he says that is because then we are looking at one tax parcel and are then addressing the fact of the substandard nature of 01.00335.00 and we have one structure and this is the time to correct it.

Mr. Borchert stated he was more than willing to agree to the Board of Adjustment's condition of the addition of parcel 01.00335.00 to the new parcel A and combine them in as one parcel to expedite this process for the Variance.

Chairman, Michael Haws, asked the Beltrami County Environmental Services Director if both septic systems in compliance on parcel 01.00331.00 as well as the cabin that is currently coming from the Dancing Bear Resort. Mr. Patnaude responded that in looking at the records both septic systems are compliant.

Chairman asked if there were any correspondence that needed to be entered into the record. Mr. Patnaude indicated he had two documents. The first document was dated October 21, 2010 which was the field review by the Beltrami County Environmental Services Department/Soil & Water Conservation District Staff. There also was the letter from the Alaska Town Board which was dated October 22, 2010. Chairman indicated both those letters would be entered into the record. Chairman asked if there was any further discussion by the Board. The Board of Adjustment Members indicated at this time they did not have any further items to discuss. Chairman stated he was going to open it up for public comment.

Linda Benson came forward. She stated she lives directly across from the Dancing Bear Resort. She stated she was carrying a petition with signatures of other landowners on Balm Lake. In that petition she cited concerns. That petition was entered as part of the record. Some of the concerns were the depth of the lot, that it is going to be a nonconforming parcel, if the Board did approve it, it would be setting a future precedence, that the 1.6 acres along the east side of the township road is not very good property, property owners also concerned there might have detrimental effects on the lake with the this approval, the County has designated the lake as a Sensitive Area Lake and the property owners, as well, support the County's classification of the lake and the want to preserve the lake. The other issue raised was the old foundation that is on the property. The question was whether or not that foundation would provide grandfather rights for future building. Another concern raised was about the Variance that had been approved a year ago to Dancing Bear Resort for the purpose of being able to replace the cabin. Concern also about the water and septic system being connected to the resort.

Chairman, Michael Haws, stated he appreciated the concerns that property owners had addressed and the petition would be entered but that he wanted to clarify one thing; with the addition of the parcel 01.00335.00 which has been agreed upon by Mr. Borchert, there is now additional shoreline now added to the parcel and the parcel is in compliance with the three acre minimum lot size and the 300 foot frontage. It is not in compliance with the 300 foot width at the building line. Chairman also stated in

regard to the foundation issue that was raised, there is no grandfather rights forwarded to the foundation. The Chairman stated that Mr. Borchert is trying to meet the standards of Balm Lake as a Sensitive Area Lake but he does have some irregular shaped parcels that he is trying to group together so the cabin will be on a separate parcel.

County Commissioner, Jack Frost, stated he felt there was not a precedent being created by the Board of Adjustment which would create future problems and, in fact, he felt what was being discussed here tonight was a win/win situation with parcels being combined into one parcel with only one usage/one structure which would be in the best interest of Balm Lake.

Linda questioned if there were other people around Balm Lake that wish to subdivide their property and create lots that could have the need for a Variance, would they be allowed to do so. Chairman, directed the question to the Environmental Services Director. Mr. Patnaude responded by saying in the 1992 Ordinance you cannot create new tracts of land which would require a Variance in order to be utilized. Linda thanked the Board of Adjustment for their hard work and said her questions and responses from the Board of Adjustment had been very helpful.

Next individual to speak was Gary McCollom. He stated he is the property owner that joins the resort. He was also the former owner of the resort. Mr. McCollom went on to say that he is not against development but that he has seen Balm Lake which had pristine sand beaches turn into a lake that everybody has concerns. He stated that in 2004 Mr. Borchert did some clearing down by the lake and he was very concerned about that and had contacted the Beltrami County Environmental Services Department and inquired about that. He stated that the cabin that Mr. Borchert is proposing to purchase from Steve Vitcak is tied to a new septic system that includes two large tanks to a pump station that lifts up the hill. He feels the cabin being purchased by Mr. Borchert should be self sufficient with water and septic system. He talked about another gentleman on Balm Lake that had four acres with an old existing cabin on the lake and this gentleman was forced to tear down the cabin. He also went on record stating Mr. Borchert does have parcel 01.00321.00 which has his home and another cabin located on it. He went on to state he was quite upset in regard to there had been a complaint about him doing some removal of vegetation a while back because he was proposing to put in an RV campsite. He stated Mr. Patnaude had called him and told him that Mr. Borchert was concerned and he could not understand why Mr. Borchert was even involved in that because he was not doing anything wrong. Mr. McCollom stated he was not comfortable with what Mr. Borchert did on his property; cleaning the vegetation right down to the edge of the lake. Mr. McCollom also stated that it was a fact that Mr. Borchert was against the development on the Hawkins property and too many people in Beltrami County are getting by with violations. He stated he knows a lot of people that are doing things after the fact and then ask for forgiveness.

Board of Adjustment Member, Doug Underthun, stated that we are talking tonight that Mr. Borchert has agreed to add parcel 01.00335.00 and that he has with him a purchase agreement to indicate that he is in the process of doing such. Mr. McCollom responded that there are still three buildings involved. Doug Underthun responded that it looks like what is being requested and what is being stipulated by the Board of Adjustment is environmentally sound for Balm Lake. Mr. McCollom stated he was quite angry in what Mr. Borchert had done down by the lakeshore.

At this point in time, the Environmental Services Director asked to be recognized by the Chair and was recognized by the Chair. Mr. Patnaude explained to Mr. McCollom that staff had checked that out and there had been a Shoreland Alteration Permit issued in 2004 to Mr. Borchert and that Mr. Borchert was in compliance. Mr. McCollom responded he was never told that when he asked. Board of Adjustment

Member, Ray Dalby, stated he had been on Mr. Borchert's property and he commended him for what he had done.

The last person to talk in the public comment period was Mr. Dave Benson. Mr. Benson stated he does not want to create ill will amongst our neighbors on Balm Lake but is concerned about what is being proposed. Chairman qualified it by saying that Mr. Borchert had agreed this evening at the public hearing that he would combine parcel 01.00335.00 and there would be only one building site which would be the existing cabin on parcel A with the combination of 01.00335.00. Mr. Benson questioned if the Board allows a parcel to be created with a 20 foot road easement. Chairman asked if the Environmental Services Director would respond to this question. Mr. Patnaude responded to Mr. Benson that the 20 foot area that is showing on the Certificate of Survey is the ingress/egress to the Dancing Bear Resort and it will also be the ingress/egress to parcel A and that the County does not have any objections or any standards for private roadways. Mr. Benson thanked Mr. Patnaude for that clarification.

Chairman asked a second time if there was anyone else who wished to speak. Chairman announced this a third time. There were no further comments. Therefore, the Chairman officially closed the public comment period and brought it back before the Board of Adjustment.

### **Findings of Fact**

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreline Management Ordinance rules?

Yes (X)      No ( )

Why?

- It is a single family seasonal year around use.
- The elimination of parcel 01.00335.00 as a separate parcel.
- Taking the existing 200 feet and expanding the shoreline area to almost 1000 feet with the addition of parcel 01.00335.00.
- The new parcel A will contain enough lot area to meet the three acre minimum of 130,600 square feet.

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

Yes (X)      No ( )

Why?

It does require a Variance in order to be able to create the two separate parcels for the two structures on the existing property as in accordance with the Beltrami County Shoreland Ordinance No. 6.

3. Is the alleged hardship due to circumstances unique to this property?

Yes (X)      No ( )

Why?

The size of parcel originally, the location of the buildings, the location of the road easement and the factor of the narrow parcel 01.00335.00 along the east side of the township road; with the

combination of those pieces, we are bringing a new parcel with a new cabin into compliance with the minimum lot area of three acres.

4. Were the circumstances causing the hardship created by someone or something other than the landowner or previous landowners?

Yes (X) No ( )

Why?

The existing parcel, the location of the township road and also the other comments as addressed in item 3 and meeting the criteria of a Sensitive Area Lake.

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

Yes (X) No ( )

Why?

One structure per parcel as required by the Shoreland Management Ordinance No. 6

6. Does the alleged hardship involve more than economic consideration?

Yes (X) No ( )

Why?

No economical hardship considerations were brought before the Board.

If all answers are “yes” the criteria for granting the variance request have been met.

Chairman stated all criteria for granting the variance request had been met and he was prepared to entertain a motion on the Variance Request of Jay Borchert. **Board of Adjustment Member, Doug Underthun moved to approve the Variance Request of Jay Borchert with the following conditions:**

- 1. The submitted Certificate of Survey will be modified to reflect parcel 01.00335.00. This is the registered Certificate of Survey prepared by registered land surveyor Bruce Skipton of Arrow Surveying.**
- 2. The Variance Permit will allow the division of 60 feet from the Steve Vitcak property of Dancing Bear Resort to be added to this new parcel A, the creation of 120 feet of the north portion of Mr. Borchert’s existing parcel 01.00321.00 and the combination of parcel 01.00335.00 to create the new parcel.**
- 3. Further recognizing that the Beltrami County Shoreline Ordinance No. 6 requires separate parcels for each individual building.**

**With that, Ray Dalby seconded the motion. Chairman called for any further discussion. County Commissioner raised a question about the sewer system. Mr. Borchert stated there have been provisions in the purchase agreement for the sewer system and well. Board of Adjustment Member, Ed Fussy, stated there should be additional language for the provision for a sewer and well agreement before we act on this Variance Request.**

**Beltrami County Attorney, Tim Faver, stated this is not an issue that the Board should concern itself with. Chairman stated he was prepared for voting on the motion to approve the Variance Request of Jay Borchert. Voting on the motion:**

<b>Doug Underthun</b>	<b>Yes</b>
<b>Ray Dalby</b>	<b>Yes</b>
<b>Ed Fussy</b>	<b>Yes</b>
<b>Ralph Morris</b>	<b>Yes</b>

**Motion was approved and carried 4 to 0.**

Chairman then stated that completed the business of the Beltrami County Board of Adjustment for October 25, 2010. Therefore, he entertained a motion to adjourn the Public Hearing for October 25, 2010. **Doug Underthun made a motion to adjourn. Ray Dalby seconded the motion. Chairman called for roll call vote:**

<b>Ralph Morris</b>	<b>Yes</b>
<b>Ed Fussy</b>	<b>Yes</b>
<b>Ray Dalby</b>	<b>Yes</b>
<b>Doug Underthun</b>	<b>Yes</b>

**Motion was approved and carried 4 to 0 to officially adjourn the Beltrami County Board of Adjustment Public Hearing for October 25, 2010.**

Chairman called the Beltrami County Planning Commission officially to order.

**Planning Commission**

**OLD BUSINESS:**

<b>Proposed Plat Request:</b>	<b>Melvin Spies</b>
	9517 Chad Drive NW
	Bemidji, MN 56601
Township:	Grant Valley
Proposed Plat Name:	Hunters Point

**The Purpose of:**  
 Proposing to subdivide approximately 40.2 acres into fifteen (15) single family residential lots, located in Section Thirty-four (34), Township One Hundred Forty-six (146) North, Range Thirty-four (34) West, Grant Valley Township as in accordance with the Beltrami County Subdivision Controls Ordinance No. 5.

**Legal Description:**  
 Tax Parcel 15.00561.00  
 The Southeast Quarter of the Northeast Quarter (SE ¼ NE ¼), Section 34, Township 146 North, Range 34 West.

Chairman asked the Environmental Services Director to brief the Planning Commission on the status of the proposed plat Hunter's Plat. Chairman asked if there had been a petition notification from Minnesota Environmental Quality Board requesting a discretionary Environmental Assessment Worksheet. Mr. Patnaude stated he had not received anything officially from the Minnesota Environmental Quality Board notifying him that a petition had been submitted and had been validated. Mr. Patnaude explained that at the September 27, 2010 meeting the plat was given preliminary approval subject to the issue the private road easement would have a Quit Claim Deed provided to the Planning Commission between the property owner to the north, Mr. Randy Platt and Mr. Spies. This has not been taken care of. At this point in time Mr. Kelly Booge from Freeberg and Grund representing Mr. Spies came forward and presented a promissory note which was presented to the County Attorney. After reviewing the promissory note, the County Attorney stated this was still not the Quit Claim Deed and the recommendation should be the plat should not be placed on the County Board Agenda until prove of the recording the Quit Claim Deed had been taken care of between Randy Plat and Melvin Spies. All other conditions of the Beltrami County Subdivision Ordinance No. 5 have been met.

Chairman stated he was prepared to entertain a motion of recommendation to the County Board. **Ray Dalby moved to officially recommend final approval of the proposed plat, Hunters Point, to the Beltrami County Board of Commissioners subject to the condition that the developer must provide proof to the Beltrami County Environmental Services Director that the Quit Claim Deed in regard to the roadway to the north has been properly recorded. Motion was seconded by Doug Underthun. Chairman called for any further discussion. There was no further discussion. Chairman called for roll call vote. Voting on the motion:**

<b>Ralph Morris</b>	<b>Yes</b>
<b>Ed Fussy</b>	<b>Yes</b>
<b>Ray Dalby</b>	<b>Yes</b>
<b>Doug Underthun</b>	<b>Yes</b>

**Motion was approved and carried 4 to 0.**

<b>Proposed Plat Request:</b>	<b>Gary Otterstad</b>
	2260 Lakeridge Drive SW
	Pillager, MN 56473
Township:	Frohn
Proposed Plat Name:	Emerald Acres

**The Purpose of:**

To develop approximately 34.7 acres into nine lots and one new roadway. Eight of the lots are riparian with one lot consisting of an existing residence.

**Legal Description:**

Tax Parcels 14.00239.00, 14.00239.06, 14.00240.00

Part of the Northwest Quarter of Southeast Quarter (NW ¼ SE ¼) and Government Lot Two (2), Section Eleven (11), Township One Hundred Forty-six (146) North, Range Thirty-two (32) West, This is a partial description. Full legal description on file at the Beltrami County Environmental Services Department.

Mr. Otterstad and Matt Murray, Murray Surveying, came forward and presented the final plat, Emerald Acres. Chairman, Michael Haws, questioned Mr. Patnaude that in his director's comments he indicated

there had not been a letter from the Town Board. Mr. Patnaude stated he wanted to apologize. In going through the file, he did find a letter which was dated September 27, 2010 and noted there is a signed road agreement between Frohn Town Board and the developer, Mr. Otterstad. All the conditions in regard to the Beltrami County Subdivision Controls Ordinance No. 5 have been complied with.

**With that, Ralph Morris moved to recommend final approval of the proposed plat, Emerald Acres, to the Beltrami County Board of Commissioners. Ray Dalby seconded the motion. Chairman called for any further discussion. There was no further discussion. Chairman called for roll call vote. Voting on the motion:**

<b>Doug Underthun</b>	<b>Yes</b>
<b>Ray Dalby</b>	<b>Yes</b>
<b>Ed Fussy</b>	<b>Yes</b>
<b>Ralph Morris</b>	<b>Yes</b>

**Motion was carried and approved 4 to 0.**

**Chairman stated that completed all the business items on the agenda for October 25, 2010. Chairman stated he was prepared to entertain a motion to adjourn. Ralph Morris moved to officially adjourn the Beltrami County Planning Commission Public Hearing for October 25, 2010. Motion seconded by Ed Fussy seconded the motion. Chairman called for roll call vote. Voting on the motion.**

<b>Ralph Morris</b>	<b>Yes</b>
<b>Ed Fussy</b>	<b>Yes</b>
<b>Ray Dalby</b>	<b>Yes</b>
<b>Doug Underthun</b>	<b>Yes</b>

**Motion carried and approved 4 to 0. Chairman called the Beltrami County Planning Commission Public Hearing for October 25, 2010 officially adjourned. Next meeting will be November 22, 2010.**

Respectfully submitted,

---

William J. Patnaude  
Beltrami County ESD Director

---

Michael Haws, Chairperson  
Beltrami County Planning Commission

**Beltrami County Planning Commission  
Board of Adjustment Public Hearing  
Minutes for Monday, December 27, 2010  
Administrative Services Center  
First Floor – County Board Room, Suite 102  
701 Minnesota Avenue NW  
Bemidji, Minnesota 56601**

**General Business**

Members present: Michael Haws  
Doug Underthun  
Ralph Morris  
Ed Fussy  
Ray Dalby

Members absent: Commissioner Jack Frost

Others Present: William Patnaude, Beltrami County Environmental Services Director  
Cynthia Dudley, 26233 Steel Bridge Rd, Waskish, MN 56685  
Polly Dalby, 26012 Manitou Rd NW, Pinewood, MN 56676

Chairman, Michael Haws, called the Beltrami County Planning Commission/Board of Adjustment Public Hearing for December 27, 2010, officially to order at 6:30 p.m. in the County Board Room, County Administration Building, Suite 102, at 701 Minnesota Avenue NW, Bemidji, MN 56601. Chairman, welcomed all those in attendance. The Chairman then asked for introductions of Planning Commission members to the public. Board members introduced themselves. Chairman then asked the Environmental Services Director to explain the meeting process.

Next item was the review and approval of the October 25, 2010 Meeting Minutes. **Ray Dalby moved to officially approve the minutes of October 25, 2010. Motion seconded by Ed Fussy. Chairman called for roll call vote. Motion carried and approved 5 to 0.**

Chairman called the Beltrami County Board of Adjustment Public Hearing for December 27, 2010 officially to order.

**Board of Adjustment**

**OLD BUSINESS:**

None



Staff recommends that the following items be attached as conditions if approved:

1. It appears that the building could be moved about 6 feet farther back from the OHW and still be approximately 20 feet from the edge of the road right of way. A Waskish Township official has indicated that this move wouldn't be a problem for the township.
2. The proposed dock (deck) should be either placed perpendicular to the OHW so the structure as measured parallel to the OHW is only 4 feet wide OR be placed below the OHW.
3. The existing native vegetation along the river should be maintained as a buffer and not mowed. The exception could be for an access path to the river where the dock (deck) is located not to exceed 10 feet in width.

Board of Adjustment members indicated the consensus was they could not approve the size cabin that was being requested and the proposed setback as requested. They felt there was more that could be done in regard to bringing the structure into compliance with the Beltrami County Shoreland Management Ordinance No. 6.

There was no further discussion by Board of Adjustment members. The Chairman opened it up for public discussion. Note: For the record, there have been two responses received by the Board of Adjustment in regard to the request. The first was a letter dated December 15, 2010 from Kelly and Patsy Petrowske stating they have no objections to the request. The second was from Richard and Bonnie Mickow which also stated they were in favor of the request. A gentleman came forward and indicated he was a neighbor and was very familiar with the area and was very supportive of the request of Cindy Dudley. He did not feel it would change the essential character of the area or neighborhood due to the fact the old dilapidated mobile home would be removed from the property and a modern cabin would be constructed. He also indicated he is the property owner to the west of Lot 11.

Board of Adjustment members then discussed the minimum square footage allowed. There was discussion of 800 square feet and discussion of less than 800 square feet. The overall consensus was 860 square feet would be realistic. Board of Adjustment members then discussed the setback being 40 feet from the closest point of the structure to the channel and 20 feet from Memory Lane. Beltrami County Environmental Services Director, William Patnaude, stated that with those parameters, he felt the Board would be able to grant a Variance and then allow Ms. Dudley to work within the confines of that Variance for putting a seasonal cottage on the property.

Board of Adjustment members agreed with Mr. Patnaude. **With that, Ralph Morris moved to grant approval of the modified Variance request of Cindy Dudley for Parcel 49.00385.00, Lot 11, Riverview Subdivision, Section 16, Township 154 North, Range 30 West. The approval is to allow a new seasonal cottage to be constructed no closer than 40 feet from the ordinary high water mark of the existing channel that is connected to the Tamarac River. The new structure will have a setback no closer than 20 feet from the setback of the edge of the Township Road, Memory Lane. The new structure is not to exceed 18 feet in height. The new structure is not to exceed 960 square feet which includes all roof overhang areas. Further conditions are: the dock as showing parallel to the channel is to be placed perpendicular; there is a 10 foot no mow zone parallel to the channel along the width of the lot.**

**Chairman stated that a motion had been made and was looking for a second. Ray Dalby seconded the motion. Chairman then proceeded to go through the findings.**

## Findings of Fact

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreline Management Ordinance rules?

Yes (x) No ( )

Why?

It is a permitted seasonal use. The plat was done in the 1940's. There is a 12' x 50' mobile home that was granted a Variance back in 1988 for 40 foot setback from the ordinary high water mark. None of the lots are able to comply with the required setback of 100 feet from the Tamarac River due to a channel which is located on the front of the lots and is connected to the Tamarac River.

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

Yes (x) No ( )

Why?

Area is unable to comply with the setbacks. Replacement of the 12' x 50' dilapidated trailer with a modern cabin will improve the locality. There is an approved sanitary sewer system consisting of a 1250 gallon holding tank which has been inspected and found to be in compliance.

3. Is the alleged hardship due to circumstances unique to this property?

Yes (x) No ( )

Why?

Again, the plat being done in the 1940's, the lot sizes prior to the Shoreland Management Ordinance adoption, the location of the township road, Memory Lane and also the fact that a channel was constructed that connected the Tamarac River in two places which became public waters. The use will not change on the property. It is being presently used as seasonal and will continue as seasonal.

4. Were the circumstances causing the hardship created by someone or something other than the landowner or previous landowners?

Yes (x) No ( )

Why?

Platted 1940's. Small parcels developed in the plat. Channel construction with the approval of the plat and the channel connected to the Tamarac River making it public water.

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

Yes (x) No ( )

Why?

The locality is seasonal cabins and year around homes which are located in three subdivisions which are Riverview Subdivision, Riverview First Addition, Great Northern Shores which are all located along the Tamarac River.

6. Does the alleged hardship involve more than economic consideration?

Yes (x)      No ( )

Why?

Economic hardship was not presented by the applicant.

If all answers are “yes” the criteria for granting the variance request have been met.

**Chairman called for roll call vote. Voting on the motion:**

<b>Doug Underthun</b>	<b>Yes</b>
<b>Ray Dalby</b>	<b>Yes</b>
<b>Don Hazeman</b>	<b>Yes</b>
<b>Ed Fussy</b>	<b>Yes</b>
<b>Ralph Morris</b>	<b>Yes</b>

**Motion and approved and carried 5 to 0.**

Chairman then directed Ms. Dudley to coordinate her permit application with Mr. Patnaude and that if the permit application was in full compliance with the approval of the Board of Adjustment, Mr. Patnaude was authorized to issue the proper permit.

Chairman asked if there were any further business to come before the Board of Adjustment. Mr. Patnaude indicated there were none. Chairman stated he was prepared to entertain a motion to adjourn the Public Hearing for December 27, 2010. **Don Hazeman made a motion to adjourn the Beltrami County Board of Adjustment Public Hearing for December 27, 2010. Ed Fussy seconded the motion. Chairman called for roll call vote. Voting on the motion:**

<b>Ralph Morris</b>	<b>Yes</b>
<b>Ed Fussy</b>	<b>Yes</b>
<b>Don Hazeman</b>	<b>Yes</b>
<b>Ray Dalby</b>	<b>Yes</b>
<b>Doug Underthun</b>	<b>Yes</b>

**Motion was approved and carried 5 to 0 to officially adjourn the Beltrami County Board of Adjustment Public Hearing for December 27, 2010.**

There was no business before the Beltrami County Planning Commission for December 27, 2010.

**Planning Commission**

**OLD BUSINESS:**

**None**

**NEW BUSINESS**

**None**

Respectfully submitted,

---

William J. Patnaude  
Beltrami County ESD Director

---

Michael Haws, Chairperson  
Beltrami County Planning Commission