



# Hubbard County Land Records - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

## June 2013 Board of Adjustment meeting staff report

### New Business:

#### Staff:

**Eric Buitenwerf,**  
Land Records Co-  
Director  
*Env. Services Officer*  
**Bryan Haugen,**  
*Env. Specialist*  
**Scott Navratil,**  
*Env. Specialist*  
**Maria Shepherd,**  
*Admin. Assistant*  
**Kevin Trappe,**  
*GIS Technician*

**Variance Application 15-V-13 by Denise Davis:** Part of Outlot 2, Oak Haven, Section 14, Township 140, Range 36, Todd Township on Fish Hook River. Parcel #: 27.37.01200. Applicant is requesting an after-the-fact variance from Sections 502.7 and 704 of the Shoreland Management Ordinance for a greater than 50% addition to a nonconforming structure located in the shore impact zone that exceeded the 4 foot maximum height increase allowed by Section 704 for an addition.

This matter started with the issuance of a building permit in 2009 for alteration of the second floor of an existing residential structure and construction of a 16' x 26' garage addition. The permit was processed by staff that has since retired so I am unable to ascertain how the project was presented to staff by the contractor or how staff determined that the project was permissible. In 2010, the permit was reissued. A copy of the permit material is enclosed for reference. In 2012 during a post construction inspection, our office discovered that the structure's OHW setback was inaccurately represented in the building permit application such that the structure was actually located in the shore impact zone (SIZ) at a 46' OHW setback and thus the project ought not to have been permitted because structures located in the SIZ can only be added onto per variance. It was also identified during the site inspection that the addition exceeded both the 50% addition allowed by Section 704 of the shoreland ordinance (under which it appears the original permit application was presented and issued) and the maximum 4' allowed height increase. A notice of violation letter was sent to the landowner in July 2012 and it has taken the time since then for the landowner to submit a complete variance application for your consideration.

A copy of the tax parcel map with the 2011 aerial photo and 2 ft. contour lines displayed is included in your packet for review.

At least two contractors were involved in the project. The initial permit was obtained by one contractor who started the project and then a second contractor finished the project.

The SSTS servicing the home is compliant and sized for the stated number of bedrooms in the house.

Before and after photos in the application show that the original house was a split level. The ground level portion of the home was completely rebuilt with a second story addition placed above it and a 16' x 26' single stall garage bay added to the north end of the house. A new second story riverside deck off this new second story addition was also constructed.

The original footprint of the house was 1814 sq. ft. Fifty percent of this area is 907 sq. ft. Per the application, 2940 sq. ft. of new construction appears to have occurred. While there is no requirement that the 50% criteria in Section 704 of the shoreland ordinance be



# Hubbard County Land Records - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

followed when considering a variance application, this information is provided to assist you in gauging the scope of the new construction area relative to the size of the original house and how it compares to what Section 704 allows to be done by permit.

## Staff:

**Eric Buitenwerf,**  
Land Records Co-  
Director  
Env. Services Officer  
**Bryan Haugen,**  
Env. Specialist  
**Scott Navratil,**  
Env. Specialist  
**Maria Shepherd,**  
Admin. Assistant  
**Kevin Trappe,**  
GIS Technician

Because the new construction primarily went upward with the exception of the garage stall addition that was added to the side of the house, the house has been this way for roughly three years, the difficulty in deconstructing it back to its original state, and the fact that the landowner appears to have not done this intentionally (she relied on her contractors who did not perform as promised-as she will likely share during the meeting), the department recommends approval of the request.

Below are proposed findings of fact for your consideration:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes ( X ) No ( )

Why or why not? The new house construction primarily involved adding a second story addition and replacing the previous ground level portion of the home with new construction. The only part of the project that went waterward was the 8 ½' x 22' second story riverside deck. The part of the project that did not go upward (garage stall addition) went to the side of the house. The house is on a lot that faces the old mill pond created from the area's logging days. This pond is an artificial creation that would likely be devoid of water if the water level of the river was not artificially kept high by the dam just a mile or two downstream on the river.

2. Without the variance, is the owner deprived of a reasonable use of the property? Yes ( X ) No ( )

Why or why not? Adding more second story living space and another garage stall for storage or vehicle use is a reasonable use of a single family residential use lot.

3. Is the stated practical difficulty due to circumstances unique to this property? Yes ( X ) No ( )

Why or why not? The house was constructed prior to enactment of the shoreland ordinance at a nonconforming OHW setback. The lot lacks sufficient depth to move the house back to a conforming 150' OHW setback.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner? Yes ( X )  
No ( )

Why or why not? As mentioned in the answer to question 3, the structure was constructed in the SIZ prior to enactment of the shoreland ordinance and there is insufficient depth on the lot to move the house back to a conforming setback and build the addition or construct a new home at a conforming setback. The landowner



# Hubbard County Land Records - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

## Staff:

**Eric Buitenwerf,**  
Land Records Co-  
Director  
**Env. Services Officer**  
**Bryan Haugen,**  
Env. Specialist  
**Scott Navratil,**  
Env. Specialist  
**Maria Shepherd,**  
Admin. Assistant  
**Kevin Trappe,**  
GIS Technician

did not construct the original house and was not involved in the ordinance's enactment.

5. Will the issuance of the variance maintain the essential character of the locality?  
Yes ( X ) No ( )

Why or why not? The locality will remain single family seasonal and year-round residences – just like the house on this property.

6. Does the stated practical difficulty involve more than economic considerations?  
Yes ( X ) No ( )

Why or why not? Economic considerations were not cited by the applicant as a difficulty. The alleged difficulty is the fact the structure was built before the ordinance was enacted and it is located in the SIZ.

7. Why did the applicant fail to obtain a variance/or comply with the applicable requirements before commencing work? Did the applicant act in good faith?

Why or Why not? The applicant authorized a building contractor to serve as an authorized agent on her behalf. The contractor represented on the permit application that the structure was located outside the SIZ and apparently that the addition would comply with the 50% addition language in Section 704 of the shoreland ordinance. A permit was obtained and then the landowner renewed the permit in 2010 – showing good faith in attempting to comply with the ordinance requirements.

8. Did the applicant attempt to comply with the law by obtaining the proper permits?

Why or Why not? Yes. As stated in answering question 7, the applicant applied for a permit in 2009 and then a renewal of the permit in 2010.

9. Did the applicant obtain a permit from another entity that violated the law? Provide explanation below.

Not that we are aware of.

10. Did the applicant make a substantial investment in the property? Provide details below.

Yes. The ground level portion of the house was completely reconstructed, a new second story addition was placed above it, a single stall garage addition was built, a second story deck was constructed, and the house was newly sided, shingled, and fitted with new doors and windows. All of these items constitute a significant investment in the property.



# Hubbard County Land Records - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

## Staff:

**Eric Buitenwerf,**  
Land Records Co-  
Director  
*Env. Services Officer*  
**Bryan Haugen,**  
*Env. Specialist*  
**Scott Navratil,**  
*Env. Specialist*  
**Maria Shepherd,**  
*Admin. Assistant*  
**Kevin Trappe,**  
*GIS Technician*

11. Did the applicant complete the repairs/construction before the applicant was informed of the impropriety? Please provide details below.
- Yes. The construction was finished before Environmental Services staff performed a site inspection on February 23, 2012.
12. Are there other similar structures in the neighborhood? Please provide details below.
- Yes. Other homes along the river are also single family residences of similar size and OHW setback as this one. The adjacent lot to the south of this property is an example of this.
13. Would the minimum benefits to the county appear to be far outweighed by the detriment the applicant would suffer if forced to remove the structure? Why or why not?
- Yes. The landowner has invested a significant amount of money in the addition to and remodel of this home. Most of the new construction replaced an existing ground level portion or went up – thereby not increasing the footprint or waterward encroachment of the structure significantly. The house sits on an artificial mill pond created when the area was logged at the turn of the 20<sup>th</sup> century and is roughly 240 ft from the river's main channel. There is not enough depth on the lot to move the structure back which is another reason to leave it be.
14. In light of all of the above factors, would denying a variance serve the interests of justice? Why or why not?
- No. There is inadequate depth on the lot to move the structure back. The house predated the ordinance and sits at a nonconforming setback. The additions did not increase the footprint of the house much and did not extend waterward, but instead went upward – which is in keeping with the ordinance's intent. The landowner attempted to comply with the ordinance by not only applying for a permit, but also renewing the permit and applying for this variance. There are no viable options to letting the house remain as is.

**Variance Application 16-V-13 by Stanley Turbes and Elizabeth Holleque:** The East 100 feet of the West 200 feet of Government Lot 2, Section 19, Township 140, Range 33, Nevis Township on Lake Belletaine. Parcel #: 21.19.01800. Applicants are requesting a variance from Section 502.2 of the Shoreland Management Ordinance for a proposed new residential structure to replace an existing nonconforming residence at less than the required 100 foot ordinary high water mark structure setback.

The request is to significantly alter an existing house whose lakeside deck sits at a 77' OHW setback (per our office's measurement-see enclosed site plan sketch by Scott



# Hubbard County Land Records - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

Navratil) such that the resulting structure will be a new house. The original house was built by permit in 1993 at a 100' OHW setback. When the DNR raised the OHW in 2006, the house became nonconforming. The existing basement floor will be converted to a crawlspace and the roof will be redone. A 32' x 38' garage addition will be added to the non-lakeside exterior wall of the house.

## Staff:

**Eric Buitenwerf,**  
Land Records Co-  
Director  
**Env. Services Officer**  
**Bryan Haugen,**  
Env. Specialist  
**Scott Navratil,**  
Env. Specialist  
**Maria Shepherd,**  
Admin. Assistant  
**Kevin Trappe,**  
GIS Technician

The SSTS installed in 1993 is compliant and properly sized for the proposed number of bedrooms.

Per the aerial photo of the property, it appears that there is roughly 100' of depth between the non-lakeside exterior wall of the existing house and the 50' setback from CR 80. That said, the SSTS runs due south off the east end of the house with the drainfield laterals being 80', 90', and 100' in length. There thus may not be much room for a new structure to be moved back much. I will need to wait until the lot viewal to see if there is room to possibly move the structure back and if the available distance would be worth the cost.

Anticipating that there likely will not be much room available to move the house back due to the SSTS, the department's below findings of fact are prepared to support approval of the request. I am not sure what the SIZ looks like, but you may want to assess it during the lot viewal and possibly consider requiring a SIZ vegetative plan as a condition of approval to mitigate the lesser OHW setback if the SIZ is lacking sufficient vegetation to filter runoff heading toward the lake or aesthetically screen the structure when viewed from the lake.

Below are proposed findings of fact for your consideration:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes ( X ) No ( )

Why or why not? The proposed new house is reusing the existing home's footprint and not moving closer toward the lake. The lowest level of the home will be brought into greater compliance with the ordinance's intent on the 3' vertical separation of the structure's lowest level from the water table by the basement being filled in and converted to a crawlspace. The roof height increase will be less than 2' so the aesthetic impact of the new structure when viewed from the lake will be negligible when compared to the existing structure.

2. Without the variance, is the owner deprived of a reasonable use of the property? Yes ( X ) No ( )

Why or why not? Correcting the water issues present in the existing structure by doing away with the basement and installing a crawlspace is a reasonable use as is the proposed garage addition that will be located on the backside of the structure.

3. Is the stated practical difficulty due to circumstances unique to this property? Yes ( X ) No ( )



# Hubbard County Land Records - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

**Staff:**

**Eric Buitenwerf,**  
Land Records Co-Director  
*Env. Services Officer*  
**Bryan Haugen,**  
Env. Specialist  
**Scott Navratil,**  
Env. Specialist  
**Maria Shepherd,**  
Admin. Assistant  
**Kevin Trappe,**  
GIS Technician

Why or why not? The existing house was built in 1993 at a conforming 100' OHW setback. The DNR raised the OHW in 2006 which made the structure nonconforming in terms of its OHW setback. The proposal is to reuse the existing structure's foundation. These factors combined create a unique circumstance on this property.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner?  
Yes ( X ) No ( )

Why or why not? The existing house was constructed in 1993 by a previous owner. The OHW was raised by the DNR and not the landowner. The landowner seeks to correct some moisture issues in the home and make it more protected against flooding by filling in the basement and converting it to a crawlspace.

5. Will the issuance of the variance maintain the essential character of the locality?  
Yes ( X ) No ( )

Why or why not? The house and surrounding properties in the locality are single family year-round and seasonal residential uses. The proposed variance seeks to maintain this property's single family year-round use and therefore will maintain the essential character of the locality.

6. Does the stated practical difficulty involve more than economic considerations?  
Yes ( X ) No ( )

Why or why not? The application does not cite economics as a difficulty. Instead, the cited difficulties are the OHW being raised by the DNR which caused this structure's OHW setback to become nonconforming and the moisture issues present with the current basement.

**Variance Application 17-V-13 by Edith Westfall:** Part of Government Lot 4, Section 24, Township 141, Range 34, Lake Emma Township on Gilmore Lake. Parcel #: 16.24.02000. Applicant is requesting a variance from Sections 502.2 and 704 of the Shoreland Management Ordinance for a proposed addition to a nonconforming residence located in the shore impact zone. The addition will exceed the maximum 4 foot height increase allowed by Section 704.

The request is to add a small 342.5 sq. ft. second story loft addition above the rear (non-lakeside) portion of a small 682.5 sq. ft. cabin built in 1952 at an 18.9" OHW setback (as measured by our office.) The cabin's current height is 11'10" and the addition would increase the height to 18.5'.

The SSTS on this lot is a holding tank that was authorized by a 1997 variance. The landowner has been pretty good over the years in submitting the required signed agreement to pump the tank per ordinance protocol, but has been deficient in submitting



# Hubbard County Land Records - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

the required receipts of pumping records to document compliance with the ordinance requirements for holding tank pumping.

The lot is postage stamp sized at .33 acres. There is not much elbow room in any direction.

## Staff:

**Eric Buitenwerf,**  
Land Records Co-  
Director  
Env. Services Officer  
**Bryan Haugen,**  
Env. Specialist  
**Scott Navratil,**  
Env. Specialist  
**Maria Shepherd,**  
Admin. Assistant  
**Kevin Trappe,**  
GIS Technician

The department recommends approval of the application because the addition is very reasonable in scope, it goes upward instead of increasing the structure's footprint in the SIZ, and it is situated on the rear of the cabin such that the aesthetic impact as viewed from the lake will be negligible.

Below are proposed findings of fact for your consideration:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes ( X ) No ( )

Why or why not? The proposed addition is going upward instead of increasing the structure footprint in the SIZ. The proposed roofline minimizes the aesthetic impact of the new loft and the structure height will still be under 19'. There is no room on this lot to go any direction (to the side or rear) so going up makes a lot of sense and this proposed addition fits perfectly with the ordinance's intent.

2. Without the variance, is the owner deprived of a reasonable use of the property? Yes ( X ) No ( )

Why or why not? The cabin is less than 700 sq. ft. in size. The addition will add less than 400 sq. ft. to the cabin. Having additional living space is very reasonable given the current cabin size.

3. Is the stated practical difficulty due to circumstances unique to this property? Yes ( X ) No ( )

Why or why not? The house was built in 1952 prior to enactment of the ordinance at an 18' 9" OHW setback. The lot is only .33 acres in size. A variance was granted in 1997 for a holding tank - thereby already recognizing and determining the lot lacks space to do much of anything.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner? Yes ( X ) No ( )

Why or why not? As previously stated, the cabin was built in the SIZ in 1952 prior to enactment of the ordinance. The lot was created by someone other than the landowner prior to the ordinance.

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



# Hubbard County Land Records - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

Yes ( X ) No ( )

Why or why not? The locality and this property are made up of single family seasonal and year-round homes and the proposed addition will maintain this character.

6. Does the stated practical difficulty involve more than economic considerations?  
Yes ( X ) No ( )

Why or why not? Economics are not cited by the applicant as a difficulty. The difficulty is the fact the lot is only .33 acres in size and lacks depth, the fact that the house was built in 1952 before the ordinance was enacted, and the fact that the cabin sits at an 18' 9" setback in the SIZ.

**Variance Application 18-V-13 by Donald and Karen Poirot:** Lot 6, Portage Bay, Section 5, Township 140, Range 35, Todd Township on Portage Lake. Parcel #: 27.47.00400. Part 1: Applicants are requesting an after-the-fact variance from Section 706 of the Shoreland Management Ordinance (SMO) for a waterward expansion of a lakeside deck on a nonconforming structure that exceeds the 15% permissible waterward encroachment. Part 2: Applicants are requesting a variance from Sections 502.2 and 704 of the SMO for proposed additions to a nonconforming residence that exceed the 50% allowed square footage addition and 4 foot maximum height increase allowed. The residence does not comply with the 100 foot ordinary high water mark structure setback.

### Part 1

During the course of the applicants applying for part 2 of the request, we discovered that the deck was enlarged in 2010 without variance approval or a permit. The application spells out the size and location of the addition.

Section 706 of the shoreland ordinance would allow a 15% waterward deck because the structure predates the ordinance. Based on the application sketch's 82' OHW setback, a 12.3' deck would be allowed. The main portion of the deck extends 8' lakeward. The center bumpout extends 14' 6" and this is slightly over 2' too far lakeward according to Section 706.

### Part 2

The applicants would like to add a second story to the cabin along with a first floor porch addition. The cabin is currently 944 sq. ft. and the second story addition will be 832 sq. ft. and the porch addition will be 48 sq. ft. The cabin height will increase from 20 to 28 ft.

The SSTS is compliant and sized for the proposed number of bedrooms in the cabin – post-addition.

The department recommends approval of both parts. Only about a 24 sq. ft. portion of the deck does not comply with Section 706 and is therefore not worth requiring the applicants to remove it. The cabin addition will primarily go up instead of out to a side or the rear of

### Staff:

**Eric Buitenwerf,**  
Land Records Co-Director  
**Bryan Haugen,**  
Env. Services Officer  
**Scott Navratil,**  
Env. Specialist  
**Maria Shepherd,**  
Admin. Assistant  
**Kevin Trappe,**  
GIS Technician



# Hubbard County Land Records

## - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

the cabin thereby keeping the footprint small and the cabin is close enough to the 100' OHW setback such that it does not make sense to make the cabin be moved back 15'.

Below are proposed findings of fact for your consideration on **Part 1**:

### Staff:

**Eric Buitenwerf,**  
Land Records Co-  
Director  
**Bryan Haugen,**  
Env. Services Officer  
**Scott Navratil,**  
Env. Specialist  
**Maria Shepherd,**  
Admin. Assistant  
**Kevin Trappe,**  
GIS Technician

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes ( X ) No ( )

Why or why not? Only a 24 sq. ft. area does not comply with Section 706 of the shoreland ordinance. The majority of the deck complies with this section. The impact to the lake is negligible and not worth requiring this small area to be removed.

2. Without the variance, is the owner deprived of a reasonable use of the property? Yes ( X ) No ( )

Why or why not? A lakeside deck is a reasonable use of a riparian lot that is enjoyed by a majority of riparian lot owners on this lake and all other lakes of similar or different classification within the county and across the state.

3. Is the stated practical difficulty due to circumstances unique to this property? Yes ( X ) No ( )

Why or why not? The cabin was constructed prior to the ordinance taking effect at a nonconforming OHW setback. The cabin possesses a lakeside walkout basement with a sliding door facing the lake on the main floor so a deck of some kind is required for safety reasons to provide secure access through this sliding door.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner? Yes ( X ) No ( )

Why or why not? The cabin was constructed prior to the ordinance at a nonconforming OHW setback. The landowner did not own the cabin at the time of its construction.

5. Will the issuance of the variance maintain the essential character of the locality? Yes ( X ) No ( )

Why or why not? The locality will remain single family seasonal and year-round residences-many of which have lakeside decks as accessory components of their residences. A lakeside deck is a typical feature on riparian lot residential use properties.

6. Does the stated practical difficulty involve more than economic considerations? Yes ( X ) No ( )



# Hubbard County Land Records - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

## Staff:

**Eric Buitenwerf,**  
Land Records Co-  
Director  
Env. Services Officer  
**Bryan Haugen,**  
Env. Specialist  
**Scott Navratil,**  
Env. Specialist  
**Maria Shepherd,**  
Admin. Assistant  
**Kevin Trappe,**  
GIS Technician

Why or why not? Economic considerations were not cited by the applicant as a difficulty. The alleged difficulty is the fact the structure was built before the ordinance was enacted at a nonconforming OHW setback.

7. Why did the applicant fail to obtain a variance/or comply with the applicable requirements before commencing work? Did the applicant act in good faith?

Why or Why not? (You will need to ask the applicant these questions.)

8. Did the applicant attempt to comply with the law by obtaining the proper permits?

Why or Why not? No. (You will need to ask the applicant, "Why not?".)

9. Did the applicant obtain a permit from another entity that violated the law? Provide explanation below.

Not that we are aware of. (Again, ask the applicant.)

10. Did the applicant make a substantial investment in the property? Provide details below.

No. The portion of the deck that does not comply with Section 706 does not constitute a "substantial investment" in our mind. The investment was just for roughly 24 sq. ft. of deck surface.

11. Did the applicant complete the repairs/construction before the applicant was informed of the impropriety? Please provide details below.

Yes. The deck was finished prior to the office becoming aware of its existence at the time of this variance application's submittal.

12. Are there other similar structures in the neighborhood? Please provide details below.

Yes. Other homes along the lake in this area have lakeside decks.

13. Would the minimum benefits to the county appear to be far outweighed by the detriment the applicant would suffer if forced to remove the structure? Why or why not?

Yes. The County would gain roughly 24 sq. ft. of deck compliance by denying the variance while the landowners would incur a sizable cost having to redo the deck to remove this area.



# Hubbard County Land Records

## - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

### Staff:

**Eric Buitenwerf,**  
Land Records Co-  
Director  
Env. Services Officer  
**Bryan Haugen,**  
Env. Specialist  
**Scott Navratil,**  
Env. Specialist  
**Maria Shepherd,**  
Admin. Assistant  
**Kevin Trappe,**  
GIS Technician

14. In light of all of the above factors, would denying a variance serve the interests of justice? Why or why not?

No. Justice is served by recognizing that the infraction is minimal and not worth requiring that it be removed.

Below are proposed findings of fact for your consideration on **Part 2:**

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes ( X ) No ( )

Why or why not? The proposed addition is primarily going upward instead of increasing the structure footprint and the cabin is close enough to the OHW setback that the proposed 28' height will be in-line with the 35' maximum height allowed at the 100' OHW setback when viewed from the water.

2. Without the variance, is the owner deprived of a reasonable use of the property? Yes ( X ) No ( )

Why or why not? The cabin is less than 1000 sq. ft. in size. The addition will add 880 sq. ft. to the cabin. Having additional living space is very reasonable given the current cabin size.

3. Is the stated practical difficulty due to circumstances unique to this property? Yes ( X ) No ( )

Why or why not? The house was built prior to enactment of the ordinance at a nonconforming OHW setback.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner? Yes ( X ) No ( )

Why or why not? As previously stated, the cabin was built at a nonconforming OHW setback prior to enactment of the shoreland ordinance.

5. Will the issuance of the variance maintain the essential character of the locality? Yes ( X ) No ( )

Why or why not? The locality and this property are made up of single family seasonal and year-round homes and the proposed addition will maintain this character.

6. Does the stated practical difficulty involve more than economic considerations? Yes ( X ) No ( )



# Hubbard County Land Records - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

Why or why not? Economics are not cited by the applicant as a difficulty. The difficulty is the fact the house was built before the ordinance was enacted and the fact that the cabin sits at a nonconforming OHW setback.

## Staff:

**Eric Buitenwerf,**  
Land Records Co-  
Director  
Env. Services Officer  
**Bryan Haugen,**  
Env. Specialist  
**Scott Navratil,**  
Env. Specialist  
**Maria Shepherd,**  
Admin. Assistant  
**Kevin Trappe,**  
GIS Technician

**Variance Application 19-V-13 by Greg and Jeanne Mehlhop:** The North 150 feet of the North 300 feet of the South 600 feet of Government Lot 3, Section 32, Township 144, Range 32, Hart Lake Township on Garfield Lake. Parcel #: 10.32.02510. Applicants are requesting a variance from Section 513 of the Shoreland Management Ordinance for a geothermal heating and cooling system to be located at less than the required 100 foot ordinary high water mark setback.

The application has been amended from what was submitted last month such that the discharge from the geothermal system is now proposed to be run into a French drain that will be located in compliance with the 100' OHW setback. The French drain will allow the discharge water to percolate back into the groundwater instead of being discharged into the lake. The geothermal system will still largely be located within the OHW setback, but the environmental concerns of an open loop system which are largely associated with how the water is discharged are greatly lessened with this new proposal.

The SSTS on the property is compliant and this proposal will not affect its sizing.

The department recommends approval of the request because the environmental concerns expressed in last month's staff report for the original variance application have been satisfactorily addressed by this amended application and the discharge water being returned into the ground at a location meeting the OHW structure setback.

Below are proposed findings of fact for your consideration:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes (X) No ( )

Why or why not? The discharge water is now being directed into a French drain at a location that meets the OHW setback such that the main environmental concern of this open loop system has now been addressed. The other portions of the system that will be within the OHW setback are already in place and do not pose environmental concerns.

2. Without the variance, is the owner deprived of a reasonable use of the property? Yes (X) No ( )

Why or why not? A geothermal heating system is a reasonable type of heating system to use in a residential home due to its long-term cost savings when compared to other heating options.

3. Is the stated practical difficulty due to circumstances unique to this property? Yes (X) No ( )



# Hubbard County Land Records - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

**Staff:**

**Eric Buitenwerf,**  
Land Records Co-Director  
*Env. Services Officer*  
**Bryan Haugen,**  
*Env. Specialist*  
**Scott Navratil,**  
*Env. Specialist*  
**Maria Shepherd,**  
*Admin. Assistant*  
**Kevin Trappe,**  
*GIS Technician*

Why or why not? The property lacks sufficient depth to have all portions of the system comply with the 100' OHW setback. The lot was created prior to the current owners' purchase of the lot and the well being used for the system's source water was also already in place at a nonconforming OHW setback.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner?  
Yes ( X ) No ( )

Why or why not? The lot lacks sufficient depth for the system components to be installed in conformance with the OHW setback requirement. The well used in the system was in place at a nonconforming OHW setback before the applicants acquired the property. The SSTS on the property and SSTS and/or well locations on adjacent properties do not allow a system to be installed on this lot in conformance with the OHW setback requirement.

5. Will the issuance of the variance maintain the essential character of the locality?  
Yes ( X ) No ( )

Why or why not? This lot possesses a single family home and the locality's properties also contain such homes that are used seasonally and/or year-round. This heating system will not harm or alter this residential character of the locality.

6. Does the stated practical difficulty involve more than economic considerations?  
Yes ( X ) No ( )

Why or why not? The difficulty is the lack of lot depth and location of SSTS and wells on this and adjacent lots.

**Variance Application 20-V-13 by Brad Bond:** Part of Government Lot 5, Section 9, Township 141, Range 35, Arago Township on Island Lake and Hay Creek. Parcel # 02.09.02310. Applicant is requesting a variance from Section 502.7 of the Shoreland Management Ordinance for a proposed new accessory structure to be located at less than the required 150 foot ordinary high water mark structure setback.

The proposal is to replace an existing accessory storage structure with a new 40' x 40' x 22' high pole building that will be located at a 75' OHW setback. The required OHW setback on Hay Creek is 150'.

The SSTS on the property are compliant and will not be affected by the proposed structure.

There appears to be room in the SW corner of the property up on the hill along the road where such a structure could be constructed and meet setbacks. I would imagine there may be security concerns with having a storage structure facing the road in this spot



# Hubbard County Land Records

## - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

because it is far removed from the main habitated structures on the property. For this reason, I can see why the applicant wants to keep the storage building closer to the main structures. The below findings of fact are thus developed for a possible approval of the request:

### Staff:

**Eric Buitenwerf,**  
Land Records Co-  
Director  
**Env. Services Officer**  
**Bryan Haugen,**  
Env. Specialist  
**Scott Navratil,**  
Env. Specialist  
**Maria Shepherd,**  
Admin. Assistant  
**Kevin Trappe,**  
GIS Technician

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes ( X ) No ( )

Why or why not? This is the furthest setback from the creek that can be realized on the property due to the topography of the slope occupying much of the area that complies with the OHW setback. The location is currently occupied by a structure that predates the ordinance and a variance is required because the applicants want a different layout than the existing structure. The lot lacks depth as well – making it further challenging to site structures in compliance with the creek setback.

2. Without the variance, is the owner deprived of a reasonable use of the property? Yes ( X ) No ( )

Why or why not? A storage structure on a resort is a reasonable use and the property does not have any other storage structures other than the existing building that will be replaced by the proposed new pole building.

3. Is the stated practical difficulty due to circumstances unique to this property? Yes ( X ) No ( )

Why or why not? The lot lacks depth from the creek and there is a large steep slope that runs through the property where the setback can be met. The applicant is simply seeking to replace an existing grandfathered structure with a new structure possessing a different, more functional footprint.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner? Yes ( X ) No ( )

Why or why not? As stated previously, the lot lacks depth from the creek and there is a steep slope that runs through the property where a structure could meet the OHW setback. The landowner did not create the lot or alter its topography.

5. Will the issuance of the variance maintain the essential character of the locality? Yes ( X ) No ( )

Why or why not? The property will continue to be a resort use and the proposed structure will be used for storage just like the structure it will replace. The surrounding properties are residential use, but they have coexisted with this resort without conflict for decades so this accessory structure replacement will maintain the locality's character.



# Hubbard County Land Records - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

6. Does the stated practical difficulty involve more than economic considerations?  
Yes ( X ) No ( )

Why or why not? Economics were not cited by the applicant as a difficulty. The difficulty is the lack of lot depth and the steep slope that runs through the portion of the property that could meet the OHW setback.

## Staff:

**Eric Buitenwerf,**  
Land Records Co-  
Director  
**Bryan Haugen,**  
Env. Services Officer  
**Scott Navratil,**  
Env. Specialist  
**Maria Shepherd,**  
Admin. Assistant  
**Kevin Trappe,**  
GIS Technician

**Variance Application 21-V-13 by Mike and Sandy Stafford-Senst:** Lot 9, Musky Bay, Section 9, Township 140, Range 33, Nevis Township on Lake Belletaine. Parcel # 21.47.01000. Applicants are requesting a variance from Section 502.2 of the Shoreland Management Ordinance for a proposed residential structure that will not comply with the 100 foot ordinary high water mark setback.

The request is to allow a 62' OHW setback for a proposed new house which equates to a 75' OHW setback variance granted in 1998 per the old OHW before the DNR raised it in 2006.

A SSTS design is on file showing that there is room to install a system and have an alternate site on the lot only with a lot line agreement with the adjacent neighbor so the drainfield can encroach on the 10' side lot line setback.

The lot has depth issues as evidenced by the 1998 variance and a similar variance granted in 1979 for a 75' OHW setback for a mobile home. The questions in my mind are how far back from the OHW can a house be located and what is a reasonably sized home/garage combination for this lot?

This one is such a tight fit that I need to see the proposed structures staked out on the lot viewal before I can offer a recommendation.

**Variance Application 34-V-12 by Gary and Susan Spear:** North 150 feet of the South 450 feet of Government Lot 3, Section 32, Township 144, Range 32, Hart Lake Township on Garfield Lake. Parcel #: 10.32.02600. Part 1: Applicants are requesting an after-the-fact variance from Section 706 of the Shoreland Management Ordinance (SMO) for a lakeside deck that exceeds the maximum allowed 15% of the structure setback waterward encroachment. Part 2: Applicants are requesting an after-the-fact variance from Section 902 of the SMO for greater than 10 cubic yards of material moved in the shore impact zone.

### Part 1

The lakeside deck on this cabin was replaced and increased in size without a variance or permit. The size increased from 12' x 23' to 12' x 28'. Section 706 of the shoreland ordinance would allow a 7.2' lakeward encroachment on the deck since the cabin predates the ordinance and sits at a 48' OHW setback (15% of 48' is 7.2'). A photo of the previous deck is enclosed in your packet for comparison to the new deck.



# Hubbard County Land Records - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

**Staff:**

- Eric Buitenwerf,**  
Land Records Co-Director
- Bryan Haugen,**  
Env. Specialist
- Scott Navratil,**  
Env. Specialist
- Maria Shepherd,**  
Admin. Assistant
- Kevin Trappe,**  
GIS Technician

**Part 2**

Slightly over 40 cubic yards of material (mainly gravel and large rocks) was moved in the SIZ without variance approval or permit. The ordinance requires a variance for any amount in the SIZ that exceeds ten cubic yards. The material is located in a row of boulders in front of the lakeside deck and gravel around the boulders and the lakeside deck. The applicants have stated that this material was brought in to correct a grading/water issue with the cabin's foundation when the foundation was repaired and the cabin slightly raised a few years ago.

The SSTS is compliant and the two parts to the variance do not affect its sizing.

The department recommends approval of the two parts to the variance on the condition that a "no-mow zone" ten feet deep x 50' wide (parallel to the shoreline) be required in front of the house along the shoreline to counteract the impervious surface area created by the larger deck and large amount of gravel/rock.

Below are proposed findings of fact for your consideration:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes ( X ) No ( )

Why or why not? Only the deck's width was increased from the previous deck which does not encroach further waterward. The gravel and rock do allow water to percolate through and are alleged to help address a water problem that was said to have been occurring in the cabin that led to its foundation being worked on a few years ago. The mitigation provided by the no-mow zone addresses the increased impervious surface area created by the deck and gravel area as well as the aesthetics of these items being in the SIZ by eventually providing some screening of these items when viewed from the lake.

2. Without the variance, is the owner deprived of a reasonable use of the property? Yes ( X ) No ( )

Why or why not? A lakeside deck is a reasonable use on a riparian lot and landscaping around the house to address a water drainage issue is also a reasonable use.

3. Is the stated practical difficulty due to circumstances unique to this property? Yes ( X ) No ( )

Why or why not? The cabin was constructed prior to the ordinance taking effect and is located in the shore impact zone. Therefore, its setback limits the deck size to only 7.2' deep if Section 706 is applied without relief and requires a variance for landscaping to address drainage around the cabin because permissible levels stop at ten cubic yards which is not much when trying to create proper grade around a foundation.



# Hubbard County Land Records - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

## Staff:

**Eric Buitenwerf,**  
Land Records Co-  
Director  
Env. Services Officer  
**Bryan Haugen,**  
Env. Specialist  
**Scott Navratil,**  
Env. Specialist  
**Maria Shepherd,**  
Admin. Assistant  
**Kevin Trappe,**  
GIS Technician

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner? Yes ( X )  
No ( )

Why or why not? The cabin was constructed in the SIZ before the ordinance took effect by someone other than the landowner.

5. Will the issuance of the variance maintain the essential character of the locality? Yes ( X ) No ( )

Why or why not? The locality will remain single family seasonal and year-round residences-many of which have lakeside decks as accessory components of their residences. A lakeside deck is a typical feature on riparian lot residential use properties. The gravel/rock landscaping will not harm the locality's residential use character.

6. Does the stated practical difficulty involve more than economic considerations? Yes ( X ) No ( )

Why or why not? Economic considerations were not cited by the applicant as a difficulty. The alleged difficulty is the fact the structure was built before the ordinance was enacted at a nonconforming OHW setback in the SIZ.

7. Why did the applicant fail to obtain a variance/or comply with the applicable requirements before commencing work? Did the applicant act in good faith?

Why or Why not? (You will need to ask the applicant these questions.)

8. Did the applicant attempt to comply with the law by obtaining the proper permits?

Why or Why not? No. (You will need to ask the applicant, "Why not?".)

9. Did the applicant obtain a permit from another entity that violated the law? Provide explanation below.

Not that we are aware of. (Again, ask the applicant.)

10. Did the applicant make a substantial investment in the property? Provide details below.

No. The deck and landscaping rock does not constitute a "substantial investment" in our mind. The two projects together were probably done for less than five figures.



# Hubbard County Land Records - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

## Staff:

**Eric Buitenwerf,**  
Land Records Co-  
Director  
Env. Services Officer  
**Bryan Haugen,**  
Env. Specialist  
**Scott Navratil,**  
Env. Specialist  
**Maria Shepherd,**  
Admin. Assistant  
**Kevin Trappe,**  
GIS Technician

11. Did the applicant complete the repairs/construction before the applicant was informed of the impropriety? Please provide details below.
- Yes. The deck and landscaping were in place at the time Environmental Services staff observed and documented it during a field visit on July 25, 2012.
12. Are there other similar structures in the neighborhood? Please provide details below.
- Yes. Other homes along the lake in this area have lakeside decks and landscaping.
13. Would the minimum benefits to the county appear to be far outweighed by the detriment the applicant would suffer if forced to remove the structure? Why or why not?
- Yes. The deck encroachment on what Section 706 requires is ~ 5' and the landscaping's aesthetic and impervious surface impacts are being addressed and mitigated by the no-mow zone condition placed on the variance approval. Requiring the deck to be cut back to 7.2' lakeward and removal of the gravel/rock would be excessive especially when they can be effectively mitigated with the vegetative buffer along the shoreline.
14. In light of all of the above factors, would denying a variance serve the interests of justice? Why or why not?
- No. As mentioned in the answer to question 13, the minor impacts of these two items can be mitigated through the no-mow zone and the two items are reasonable to have on a lakeshore cabin. The issues stem from the cabin being located in the SIZ and there being foundational water issues that required grading work and these items were beyond the landowner's control.

**Variance Application 22-V-13 by Hanzon Prop. of Little Sand Lake:** Part of Government Lot 4, Section 2, Township 140, Range 34 and Part of Government Lot 4, Section 35, Township 141, Range 34. Henrietta and Lake Emma Townships on Lake Ida and Little Sand Lake. Parcel #s: 13.02.02320 and 16.35.01710. Applicant is requesting a variance from Sections 502.1, 502.2 and 904.6 of the Shoreland Management Ordinance for a proposed platform that will not comply with the 50 foot road right-of-way setback on a lot that exceeds the 25% impervious surface coverage.

The request is to install a platform next to the restaurant that will be 27' from the CR 7 ROW instead of the required 50' and contribute to the property's greatly exceeding the maximum allowed 25% impervious surface coverage. The lot area is 77,536 sq. ft. Twenty-five percent of this area is 19,384 sq. ft. A rough estimate on existing impervious surface area calculated by measuring with the aerial photo and GIS software is 46,915 sq. ft. (60.5%).



# Hubbard County Land Records - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

The department does not object to the ROW setback as the restaurant is nonconforming and predates the ordinance. However, the impervious surface area issue is a large concern because of the property being right on the edge of Little Sand Lake and there being a large hill to the south of the restaurant property that drains through the property into the lake. The department therefore recommends that the variance be approved on three conditions (with the latter two conditions being open for modification or removal if the lot viewal shows that roof and parking lot runoff are already being adequately handled): 1. the proposed platform be installed using pervious pavers so precipitation can infiltrate the area into the ground, 2. a vegetative buffer (approved by our office) be installed and maintained between the parking lot and lake to catch and filter runoff from the restaurant roof and parking lot, and 3. a stormwater management plan (approved by our office) be developed and implemented to direct runoff from the restaurant roof into French drains or rain gardens and parking lot runoff into rain gardens with small vegetated berms installed along the north edge of the parking lot near the lake to further absorb runoff and keep it from running unfiltered into the lake.

## Staff:

**Eric Buitenwerf,**  
Land Records Co-  
Director  
*Env. Services Officer*  
**Bryan Haugen,**  
*Env. Specialist*  
**Scott Navratil,**  
*Env. Specialist*  
**Maria Shepherd,**  
*Admin. Assistant*  
**Kevin Trappe,**  
*GIS Technician*

The SSTS is compliant and will not be affected by this proposal.

Below are proposed findings of fact for your consideration:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes ( X ) No ( )

Why or why not? The conditions imposed on the variance will mitigate the excessive impervious surface area on the property and the reduced platform setback from the road ROW is not an issue because the setback will still be 27' which is 7' more than the setback required for a township road and the curve of the road along the restaurant is such that vehicle speeds must be significantly lessened such that the road at this point functions at a lesser speed typically seen on a township road and is thus suited to a 20' setback.

2. Without the variance, is the owner deprived of a reasonable use of the property? Yes ( X ) No ( )

Why or why not? The proposed platform location is right next to the restaurant and parking lot in a traffic path so it is reasonable to cover this area in a safe, pedestrian-friendly surface.

3. Is the stated practical difficulty due to circumstances unique to this property? Yes ( X ) No ( )

Why or why not? The restaurant predates the ordinance and never met the 50' road ROW setback. The vehicle and foot traffic seen on this property due to the restaurant use is unique and the restaurant has long been in operation here – presumably prior to the ordinance. Paving the area does protect the soil from erosion due to the heavy traffic, but does create the need to manage the stormwater before it reaches the



# Hubbard County Land Records - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

**Staff:**

**Eric Buitenwerf,**  
Land Records Co-Director  
**Bryan Haugen,**  
Env. Services Officer  
**Scott Navratil,**  
Env. Specialist  
**Maria Shepherd,**  
Admin. Assistant  
**Kevin Trappe,**  
GIS Technician

water due to the pavement's concentrating the runoff and not allowing it to infiltrate the ground.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner?

Yes ( X ) No ( )

Why or why not? The restaurant use and location predate the ordinance and the landowner's ownership of the property.

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

Yes ( X ) No ( )

Why or why not? The restaurant use will continue and not be affected by the proposed platform and the surrounding residential uses have not been harmed by the restaurant nor will they be harmed by an accessory platform located next to the restaurant.

6. Does the stated practical difficulty involve more than economic considerations?

Yes ( X ) No ( )

Why or why not? The difficulty concerns the restaurant's location and use predating the ordinance and the unique circumstances of heavy vehicle and foot traffic seen by the restaurant from its patrons. Economics were not cited by the applicant as a factor.

**Variance Application 23-V-13 by R & I Jackson LLC:** The South ½ of the SE ¼, Section 29, Township 143, Range 34, Lake George Township on the Schoolcraft River. Parcel #: 17.29.00200. Applicants are requesting a variance from Sections 502.7 and 704.7 of the Shoreland Management Ordinance for a proposed addition to a nonconforming residence originally constructed per variance that does not comply with the 150 foot ordinary high water mark setback.

The request is to add a 9' x 12' addition to a 24' x 39' house that was approved by an after-the-fact variance in 2009 to be at an 82' OHW setback instead of the required 150' OHW setback. The addition will not go closer to the river than the existing 82' setback. The existing cabin is 12' high and the proposed addition will be 10' high.

The SSTS is compliant and was installed in 2009. The proposed addition will not affect the system's sizing.

The department recommends approval of the request because the scope of the addition is minor relative to the existing house and it does not go any closer to the river.

Below are proposed findings of fact for your consideration:



# Hubbard County Land Records - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

## Staff:

**Eric Buitenwerf,**  
Land Records Co-  
Director  
*Env. Services Officer*  
**Bryan Haugen,**  
*Env. Specialist*  
**Scott Navratil,**  
*Env. Specialist*  
**Maria Shepherd,**  
*Admin. Assistant*  
**Kevin Trappe,**  
*GIS Technician*

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes (X) No ( )

Why or why not? Section 704.7 of the shoreland ordinance requires that any subsequent alteration to a structure previously approved by variance be also processed by variance. In 2009, the Board of Adjustment determined that the structure's location was reasonable in light of the factors involved. A 108 sq. ft. addition to a 936 sq. ft. house is reasonable and it does not go closer to the river than the existing structure.

2. Without the variance, is the owner deprived of a reasonable use of the property? Yes (X) No ( )

Why or why not? A 108 sq. ft. addition to a 936 sq. ft. cabin is reasonable. The structure is not excessively sized.

3. Is the stated practical difficulty due to circumstances unique to this property? Yes (X) No ( )

Why or why not? The existing house was approved by variance in 2009. Section 704.7 of the shoreland ordinance requires a variance for any subsequent alterations to the structure. This is a circumstance that is unique to the property.

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner? Yes (X) No ( )

Why or why not? As previously mentioned, the house sits at a nonconforming setback per a 2009 variance and Section 704.7 of the shoreland ordinance requires that any subsequent alterations to the structure be processed by variance. This requirement is not something that the landowner created. The County created it.

5. Will the issuance of the variance maintain the essential character of the locality? Yes (X) No ( )

Why or why not? The locality is remote with very few structures along the river. This is a seasonal use site that does not see much use. The proposed addition is not going to change the locality's character or harm it in any way.

6. Does the stated practical difficulty involve more than economic considerations? Yes (X) No ( )

Why or why not? Economics were not cited in the application as a difficulty. The difficulty is the previously mentioned required of Section 704.7 of the ordinance that any alterations to a structure previously approved by variance go through a variance process as well for approval.



# Hubbard County Land Records - Environmental Services

301 Court Avenue, Park Rapids, MN 56470  
Phone: 218.732.3890 Fax: 218.732.7993  
[www.co.hubbard.mn.us/environmental.htm](http://www.co.hubbard.mn.us/environmental.htm)

---

## **Staff:**

**Eric Buitenwerf,**  
*Land Records Co-  
Director*  
*Env. Services Officer*  
**Bryan Haugen,**  
*Env. Specialist*  
**Scott Navratil,**  
*Env. Specialist*  
**Maria Shepherd,**  
*Admin. Assistant*  
**Kevin Trappe,**  
*GIS Technician*