

Douglas County Lakes Association

Public Works Building

July 8, 2015

The meeting was called to order at 4:30 p.m. by President Jan Beliveau. The following persons were in attendance: Jan Beliveau - Mary; Jim Peterson - Ida; Linda Dokken-McFann - Mary; Juanita Bolinger - Mary; Stephen G. Henry - L'Homme Dieu; Sue Engstrom - Darling; Dian Lopez - Ida; H. Dan Ness - Vermont; Larry Steinberg - Private; Don Full - Private; Linda Full - Private; Steve Kogler - Lobster; Gene Rose - Miltona; Don Stallman - Irene; Joan Norman - Latoka; Chris Risbrudt - Stowe; Don Clausen - Rachel; Vern Lorsung - Latoka; Gary Waller - Red Rock; Steve Henry Jr. - SWDC; Dave Rush - DC Land & Resource Director; Sue Jelen - Private, Jeff Johnson - guest . A quorum was present.

1. Youth Day Event and the Bow Fishing Challenge update were added to the agenda. Stephen G. Henry moved, Sue Engstrom seconded to approve the July agenda. Motion passed.

2. Spelling correction on Barfknecht noted. Juanita Bolinger moved, Vern Lorsung seconded to approve the June 10, 2015 meeting minutes. Motion passed.

3. Jim Peterson provided the monthly treasurer report. Balance in checking account is 15320.85. Mr. Peterson indicated that the following lakes have not paid dues: Miltona, Big Chip, Lake Vermont, L'Homme Dieu, Red Rock, Stoney, and Devils Lake. The following bills submitted; R&B Labs 882.00 for June water sample testing. Sue Engstrom moved, Dian Lopez seconded to pay June bill. Motion passed. R&B Labs 568.00 for May water sample testing. Juanita Bolinger moved, Stephen G. Henry seconded to pay May bill. Motion passed. Linda Dokken-McFann 750.00 for January through June, 2015 DCLA Minutes. Juanita Bolinger moved, Vern Lorsung, seconded. Motion passed.

4. Committee Reports:

Public Relations - Stephen G. Henry noted that the next Open Line is scheduled for the last week in July. He suggested the following individuals: the local conservation officer, DC Sheriff's Water Department or the DNR would be asked to speak on general things going on in the County as it relates to their departments.

Zoning & Environment - Sue Engstrom - no lakeshore issues to report for this month

Website - Don Clausen - no report for this month.

Water Planning Update - Steve Henry (Douglas County Soil & Water) Mr. Henry reported that the Clean Water Legacy Fund has 13 million dollars to be used for clean water projects by Counties. In addition, the Outdoor Heritage Fund has monies that Counties can use. Ottertail, Pope, Crow Wing and Chippewa have opted to support projects within their counties that directly deal with water quality issues. He asked this question, "What are our lakes ? Mr. Henry's department have identified and estimated costs for projects within Douglas County that are "best ideas to support clean water". Several examples areas to reduce pollution were given such as 300,000 to clean up Pocket Lake , 250,000 for Lake Rachel, 1 million for Lake Ida to address issues with Ditch 23, sand permeable weir system installed on Ditch 9 on Lake Mary, Lake Victoria with the runoff issue from agriculture land, septic on the Long Prairie River,

the gully into Geneva and the stormwater pond on Latoka. Mr. Henry strongly suggested that DCLA concentrate on water quality concerns and voice our opinions and ideas to our elective officials that our "lakes are worth it". Until water quality is viewed as a high priority nothing is going to change within Douglas County. The County does not zone based on water quality is another issue that needs to be addressed. There is such a disconnect between assessment tools and the concept of clean water concerns.

The TMDL on Lake Winona is between ALASD and Denise at the MPCA. There is 25 million in the public authority fund that ALASD could apply for water quality projects. It appears that ALASD would rather seek to loosen water quality standards. Mr. Henry indicated at the current rate, it will take decades to resolve the chloride issue in Lake Winona.

In summary, there appears to be several State Funds that the Douglas County can apply for grants to promote clean water projects. Why has Douglas County officials dragged their feet and choose not to be proactive like other Counties around us? Let's start the discussion with our elective officials. It appears DCLA has to be the voice to push water quality matters.

5. General consensus of members is to pass on the Youth Day Event scheduled for August 2015 due to short notice and lack of time to organize for this event. Jan Beliveau, Stephen G. Henry and Linda Dokken-McFann volunteered to assist Sue Engstrom with the Fleet Farm Kids Fishing Day Event this Saturday, 7/11/2015. Steve Henry, SWDC will provide the items needed.

6. Chris Risbrudt reported that 20 boats participated in the First Annual DC Bow Fishing Challenge. A total of 437 fish were shot equaling 3300 lbs. Bio Corp Company bought the rough fish for turtle food and the profits were given to the school district for the Youth Archery program. Biggest fish taken in was a 28.4 pound carp. According to Mr. Risbrudt, the sportsmen clubs plan to have this event next year.

5. Dave Rush, Douglas County Land & Resource Department Director - guest speaker. Overview of MN Statutes and DC Ordinances with regard to Variances. General discussion was held on variances with references to sewer connections, set back requirements, impervious surface issues and existing nonconforming lots.

Minnesota Statutes Chapter 394 enables counties to enact official controls on the development and use of land through a zoning ordinance to protect the health, safety, welfare, and basic rights of property owners in the county.

That Minnesota Statutes Chapter 394.27 allows a county to provide relief from the strict application of the terms of the zoning ordinance through the granting of a variance.

In 2011, the Minnesota Legislature amended Statues Chapter 394.27 subdivision 7, changing the standard and criteria under which variances should be evaluated such that the applicant must establish that they have a "practical difficulty" in complying with the strict interpretation of the official controls.

A variance is an exception to the rules that are set forth in the Douglas County Zoning Ordinance. A variance is necessary when a landowner wishes to build or develop his/her property and the rules of the ordinance prohibit him/her from doing so.

The courts have said that the applicant has the "burden of proof" to show that there are no other options available to them and that following the ordinance would cause a "practical difficulty" to the property owner. A practical difficulty is a situation that arises whereby a property owner proposes to use property in a reasonable manner not permitted by the county zoning ordinance or other official controls; that the plight of the landowner is due to circumstances unique to the property and not created by the landowner; and the variance, if granted, will not alter the essential character of the locality.

Criteria for Granting Variances

The Board of Adjustment shall have the exclusive power to order the granting of variances from the terms of the ordinance, including restrictions placed on non-conformities. It shall be the burden of the applicant to demonstrate a practical difficulty to sustain the need for a variance. Absent a showing of practical difficulty as provided in Minnesota Statutes and the ordinance, the Board of Adjustment shall not approve any variance.

No variance shall be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. Specifically, the Board of Adjustment must find that each of the following criteria are satisfied.

- (1.) That the request is in harmony with the general purpose of the Douglas County Land Use Ordinance and the goals and policies of the Comprehensive Plan; and*
- (2.) That the applicant is proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance; and*
- (3.) That the issuance of the variance(s) will maintain the essential character of the locality; and*
- (4.) That the alleged practical difficulty is due to circumstances unique to the property; and*
- (5.) That the need for the variance was created by actions other than of the landowner or prior landowners and.*
- (6.) That economic considerations alone shall not constitute practical difficulties that justify the granting of a variance and*
- (7.) The practical difficulty cannot be alleviated by a method other than a variance; and*
- (8.) The granting of the variance will not adversely impact the environmental health or quality of the location or a specific resource.*

Findings of fact are questions asked about the property in question. The "findings of fact" is given to the Board of Adjustments for their review. The decision is made at a public hearing, by the Board of Adjustments, on whether a "practical difficulty" has been demonstrated. The information provided by the applicant will help determine this. More information about Variances go to the Douglas County homepage under Land & Resource Ordinances under Section Six.

General discussion was held on the Oleson's applicant on Cowdry Lake. Applicant applied to the DC to subdivide a lot located within the sewer district. Current DC ordinance states must provide individual sewer connection for each new lot. It should be noted that Sewer District does not require a property owner to hook up if more than 300 feet from the sewer line or if the connection is at a forcemain pipe area. Forcemain line is water under pressure in a holding tank and must be pumped up a hill. Oleson applied to the BOA for a variance from the requirement to provide the newly platted lot with a connection to central sewer. The BOA denied applicant's variance request to put a private sewer system and requires the property owner to connect to public sewer line for the new subdivided lot. *Two different jurisdictions with different guidelines.*

There is additional costs associated with hooking up to a forcemain pipe as it is a complicated task and can potentially create problems for the home owner if something happens to the forcemain, causing sewage to be pumped back into the houses. The applicant in this case can appeal the BOA's decision within 30 days in District Court.

The neighboring property owner had an existing lot that was platted before the County required new lots to be connected to central sewer. Because the lot is existing, the county has no jurisdiction over the requirement to connect. Therefore, if the sewer district does not require connection, then the county will allow an individual septic treatment system to be installed. These cases are very different and the outcomes reflect such.

Per Dave Rush, DC does give credit to property owner who chooses to put in pervious pavement system. This is an option if land owner is over the 25% impervious surface allowed. This requires a Conditional Use Permit, owner must complete a stormwater plan and the system must be installed by a licensed person. The use of pervious pavement systems has increased in recent years as an effective way to reduce the flow of untreated stormwater into surface waters and to recharge groundwater. While pervious pavement is preferred over traditional pavement in shoreland areas, it is not exempt from the 25% impervious surface limit in city and county shoreland ordinances. These pavement systems can never replace the benefits of native soils and vegetation in shoreland areas, such as erosion prevention, nutrient uptake, and the preservation of fish and wildlife habitat and shoreland aesthetics. Minimizing the amount of hard surfaces in shoreland areas is critical to achieving these statewide goals for shoreland protection.

Using a "credit" system to allow the use of pervious pavement to exceed the 25% impervious surface limit is prohibited in the shoreland district. And in no case should any hard surface be placed in the shore impact zone (SIZ) or bluff impact zone (BIZ) unless needed for water access. Any project that proposes to exceed the impervious surface limit through the use of pervious pavement should be reviewed as a variance. Per Dave Rush his department needs to re-evaluate how well these systems are working. There is concern with the maintenance of these systems.

Another tool discussed was the String Line Rule. This has been utilized to determine the placement of a house on a vacant lot that sits between two lots with existing houses. The thought here is the new structure must be in line with existing structures except in the shore impact zone. This also has some issues with the new homes being far larger than existing homes.

Last item presented by Dave Rush was the MN Statute 394.36 Existing Non Conforming Lots. Anything in place before rules that might prohibit it, can continue. Can't be enlarged or made more non-conforming in anyway. In 2009 revised to read if damaged more than 50% may repair, restore, or replace the structure. The County gives flexibility to move non conforming square footage around to improve the lot. If a non conforming structure in shoreland area is damaged or burned, the property owner has 180 days to rebuild or forfeits the structure.

With no further business, Stephen G. Henry moved, Linda Dokken-McFann seconded to adjourn the meeting at 6:10 p.m. Motion passed.

Minutes recorded and prepared by Linda Dokken-McFann, DCLA Secretary 07/11/2015