



MINUTES

REGULAR MEETING OF THE CITY OF NISSWA
PLANNING COMMISSION/BOARD OF ADJUSTMENT
TUESDAY, JULY 9, 2019, 5:30 PM

Members Present: Don Jacobson, Anne Laufman, Josh Young, Gary Harris, Bob Fier

Members Absent:

Others Present: Mark Hallan

Staff Present: Brittney Cotner, Maggi Wentler

1. Call To Order

2. Meeting Roll Call

3. Onsite Visits

a. 5065 Pleasure Plath – Channing Johnson – Variance

b. Did not visit 5147 Poplar as we have visited in previous month

4. Additions & Deletions from the agenda

5. Approve Minutes:

a. June 4, 2019 Regular Scheduled Meeting Minutes

6. Open Forum:

a. Jack Grotkin Impervious Coverage Discussion

b. Jordan Aune – Travel Trailer Violation Discussion

7. Public Hearings:

a. Variance 020-19 – Channing Johnson – Denied

b. Conditional Use Permit 010-19 – Shawn Larson – Approved

c. Conditional Use Permit Amendment 005-19 – Fallen Woods/Russell Gibbons –
Recommend to City Council

d. Variance 017-19 – Interlachen Home Owners Association – Denied

e. Ordinance Amendment-Accessory Structures – City of Nisswa – Recommend to
City Council

f. Ordinance Amendment-Exterior Building Finishes – City of Nisswa –
Recommend to City Council

8. New Business:

a. Flagpole and Flag Ordinance Discussion

9. Old Business: None

10. Planning & Zoning Administrator's Report

a. Permits Approved

b. Violations List

c. Conditions Status Update

d. Purchased a Foot Candle Light Meter

e. Updated filings with Crow Wing County

f. Big Axe Brewery Discussion

11. Commissioners Questions/Comments

Planning Commission/Board of Adjustment Meeting July 9, 2019

47 **12. Adjourn**

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MEETING MINUTES FROM JULY 9, 2019

1. Call to Order: Laufman calls the meeting to order 5:30pm.

2. Meeting Roll Call: 5:30 pm

3. Onsite Visits:

- a. 5065 Pleasure Path – Channing Johnson – Variance
- b. 5147 Poplar – Did not visit as the commission has already been there

4. Additions & Deletions from the agenda

Cotner would like to add a item: 10.f. Big Axe Brewery Discussion

MOTION: Jacobson approved the agenda as amended, seconded by Young. All members voting “Aye”, motion carries.

5. Approval of Minutes:

a. June 4, 2019 Regular Scheduled Meeting Minutes:

MOTION: Harris motioned to approve the June 4, 2019 minutes as presented, Jacobson seconded. All members voting “Aye”, motion carries.

6. Open Forum:

Jack Grotkin – Grotkin lives at 21748 Tall Timbers Rd. He would like to add on a small addition on the existing garage. This would put him above the impervious coverage allowed by the city; 26%. He would like to remove the sidewalk and install pervious pavers. Grotkin is wondering if the city would allow pervious pavers. Laufman stated she is not personally in favor of 26% impervious coverage. Jacobson suggested that the surveyor check the survey and calculations again as 1% is very close. But a variance would be required for anything over the 25% limit. Pervious pavers need to be maintained and many times they don’t get the maintenance they require, for this reason we do not allow them in the city. Fier stated that the city does not recognize the difference between pervious and impervious pavers. Laufman suggested that he get on the agenda as a sketch plan to discuss further. Grotkin stated he would like to just work with staff. Harris stated if he is over on impervious coverage he will need a variance.

97 **Jordan Aune** – lives on the corner of Church Street and Poplar. He was recently
98 informed he was in violation of parking his travel trailer out front. He has been
99 working to correct the issue with Cotner. He needs to park the trailer on his
100 property year round. He can put it behind his garage, but it will still be visible
101 from Church Street, because he is on a corner lot. Cotner is looking for direction
102 on what the commission is thinking. Jacobson stated the ordinance is meant to
103 limit the view from the road. Cotner stated the ordinance stated it shall be placed
104 behind the primary structure. Laufman and Young agree that screening is the
105 main intent of the ordinance

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108 **7. Public Hearings:**

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110 **MOTION:** Jacobson motioned to open the public hearing at 6:19pm, Harris
111 seconded. All members voting “Aye”, motion carries.

- 112
113 **a. Variance application 020-19: to construct a dwelling 10 feet from the**
114 **right-of-way (20 ft. required) and 7 feet from the side lot line (15 ft.**
115 **required)**

116 **Property Location: 5065 Pleasure Path**

117 **Applicant/Property Owner: Channing Johnson (present)**

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119 Cotner read her staff report in for the record.

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121 Fier stated that there is about 30 ft of grassy area to the north to achieve the
122 required setbacks. Young questioned if there were any future plans for this
123 Shady Lane that a 10 foot setback could be a problem. Hallan stated the road
124 is currently 30 ft. right-a-way and is narrow now. Harris stated that many of
125 the trees there are expendable. There is plenty of room on the property to
126 move the structure back to meet the setback requirements. Johnson could
127 redesign the building and/or move the well. Jacobson stated since you are
128 removing the entire structure and foundation you are pretty much starting with
129 a clean slate. He believes there is plenty of space to meet all setback
130 requirements with minimal tree removal.

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132 **Motion:** Jacobson motioned to deny this variance application 020-19 as there
133 is sufficient space on the property to meet all setback requirements per the city
134 ordinance based on the following Findings of Fact:

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136 1. The subject property is located at structure located at 5065 Pleasure Path.
137 (PIN 28116000061Z009).
- 138 2. The subject property is located between Gull and Round Lake and is
139 zoned “Shoreline Residential”.
- 140 3. The variance request is to allow a home to be built with 10’ set back from
141 the side property line (15’ required) and 7’ setback from the local right-of-
142 way (20’ required).
- 143 4. The impervious surface coverage of the property with the proposed
144 dwelling is 14%.
- 145 5. Practical difficulties, as defined by ordinance, have/have not been
146 established.

- 147 a. The property owner proposes to use the property in a reasonable
148 manner not permitted by an official control.
149 i. Yes, the request to construct a single family dwelling on the pre-
150 existing parcel is reasonable but not permitted to have the limited
151 setbacks requested.
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153 b. The plight of the landowner is due to circumstances unique to the
154 property not created by the landowner.
155 i. No. The subject property has adequate space to meet the required
156 setbacks. The location of the existing structures on the subject
157 property have been grandfathered in, this classification would not
158 translate to a new structure on the property. The subject property
159 does not have any unique circumstances which would justify such
160 limited setbacks.
161 ii. A home meeting the requirements of the ordinance may be
162 constructed in multiple location of the subject property.
163
164 c. The variance, if granted, will not alter the essential character of
165 locality. Economic considerations alone do not constitute practical
166 difficulties. Practical difficulties include, but are not limited to,
167 inadequate access to direct sunlight for solar energy systems.
168 i. The applicant has indicated their “practical difficulty” in
169 complying with the ordinance is the fact there are trees in the rear
170 of the lot. Refusing to cut down trees to meet the ordinance is an
171 “economic consideration.” Economic considerations alone do not
172 constitute practical difficulties.
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174 Seconded by Young. All members voting “Aye”, motion carries.
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177 **b. Conditional Use Permit application 010-19: to construct an accessory**
178 **structure for storage of equipment**
179 **Property Location: 25305 East Clark Lake Road**
180 **Applicant/Property Owner: Shawn Larson (present)**
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182 Cotner read her staff report in for the record.
183

184 Ron Whipple (audience) is a neighbor of Larson questioned why the guest
185 cabin doesn't count towards impervious coverage. Laufman stated it does
186 count towards impervious coverage; it just doesn't count towards the 2500 sq.
187 ft. accessory structure total.
188

189 Frances O'Neill (audience) is the neighbor to the north of the Larson property.
190 She has many concerns that the ordinance states in regards to evaluating
191 criteria. The commission should be ensuring that the use and enjoyment of the
192 surround properties is not impaired. O'Neill stated they play yard games in
193 their yard and will now see a 50' x 50' commercial looking building in a
194 residential area. This will affect our enjoyment. O'Neill stated the property
195 values will depreciate as no one will want to look at this large building that
196 can be seen from most of their property. This proposed structure doesn't fit

197 within this community area. O'Neill stated they are likely to take down nine
198 100+year old pine trees to build this structure. She would like the commission
199 to consider more than just the numbers, but the community and the character
200 of the neighborhood. Fier questioned if there would be an acceptable size they
201 would like to see. O'Neill stated an oversize garage that would fit an SUV.
202 The proposed building is 24 ft tall and we will not see the sunsets if this is
203 built. Cotner stated that a professional assessment would be required to see
204 how the property values would be affected.

205
206 Bob Reichenbach (audience) lives a few houses down from the Larson
207 property. He questioned why the city is changing the ordinance just for him.
208 Laufman stated we are not changing the ordinance for Larson.

209
210 Larson wasn't sure how the neighbor's enjoyment would be affected as the
211 building will not disrupt them playing yard games. Larson also noted that his
212 neighbor Ron Whipple also has a 50 ft. long building. Whipple (audience)
213 stated he has a 24 ft. x 50 ft. with 8 ft. side walls. The height of the proposed
214 building is an issue to him and he also has an issue with the impervious
215 coverage. Harris stated Larson is under the impervious coverage calculation of
216 25%. Hallan stated that the proposal is for 12 ft. ceiling height which would
217 put the peak at around 20 ft.

218
219 Young questioned the specific wording in the ordinance as it states "guest
220 cabin" not plural; cabins. Could we interpret differently as there are more than
221 one guest cabin on the property? Laufman stated they are only allowed one
222 guest cabin now, so this property is grand-fathered in. Cotner believes this
223 fits within the definition.

224
225 Harris questioned how the garages could be kept if the building and the porch
226 have a total of 2400 sq. ft. Hallan stated Larson would need to remove the
227 garages or reduce the size of the building to meet the ordinance restrictions of
228 2500 sq. ft. in accessory structures. Larson stated the porch was 8 ft. x 50 ft. it
229 is not screened in. Hallan stated that the porch is part of the building and is
230 counted in the total sq. ft.

231
232 Jacobson questioned if there would be one or two overhead doors as there are
233 two drawings that show different versions. Larson stated they will have two
234 overhead doors. Jacobson stated we just completed our Comprehensive Plan
235 and many residents are in favor of keeping the ambiance. In the ordinance
236 under the Conditional Use definition it states it must be compatible with the
237 existing neighborhood and not be injurious to the public health, safety,
238 decency, order, conform, convenience, appearance or prosperity. Jacobson
239 believes we need to think outside the numbers and think about the appearance
240 of the neighborhood. For these reasons Jacobson is not in favor of this
241 application.

242
243 Larson asked if he adjusted the size of the building to a 40 ft. x 40 ft. with 10
244 ft. ceilings. This is his third month here and he would like to get something
245 approved and moving forward. He would also like to keep the porch. Laufman
246 questioned if 40 ft. x 40 ft. would include the porch. Larson the building

247 would be 40 ft. x 40 ft. plus an 8 ft. x 40 ft. porch; total of 40 ft. x 48 ft.
248 Larson presented the commission with updated drawings. Laufman stated it
249 still seems too large as it is twice the size of the main structure. Larson
250 mentioned that 10 years down the road he would like to build a larger home,
251 as he would like to live here someday. Fier stated he would like to have the
252 height reduced and have the porch removed. Young stated with this new
253 proposal he believes that three trees will be taken down for sure. Larson
254 believes it will be closer to five or six trees that will need to be taken down.
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257 **Motion:** Laufman motioned to approve this Conditional Use application to
258 construct the new proposed accessory structure, 40ft. x 40 ft. building with 10
259 ft. ceiling height and no porch, for storage of equipment with the following
260 condition:

- 261 1. The accessory structure may not contain living quarters and may not
262 be utilized for human habitation.
- 263 2. The applicant shall reduce the size of the proposed structure or remove
264 other “accessory structures” so the cumulative “accessory structure”
265 area on the subject property does not exceed 2,500 sf.
- 266 3. The property owner shall plant six one inch caliper evergreen trees or
267 other vegetation acceptable to the planning commission south of the
268 proposed accessory structure/along the south property line.
- 269 4. *The applicant shall provide an updated certificate of survey identifying*
270 *all impervious surfaces on the subject property.*
- 271 5. Building size will not exceed 40 ft. x 40. ft. The building will have a
272 10 ft. ceiling height and will not include a porch.
- 273 6. Exterior materials and finishes will be as presented.
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275 Findings of Fact:

- 276 1. The subject property is located at 25305 East Clark Lake Road.
- 277 2. The subject property is in the “Shoreland Residential” Zoning District
278 (Clark Lake- General Development).
- 279 3. The conditional use permit request is to construct a 40’ x 40’ (1,600 sf)
280 residential accessory structure.
- 281 4. The subject property is 33,710 sf.
- 282 5. The subject property is allowed 2,500 sf of “accessory structure” space
283 as per Section 4.7.12 (B) of the zoning ordinance.
- 284 6. Impervious Surface Coverage: The property will have a 21.2% percent
285 impervious surface coverage.
- 286 7. Water Supply: The subject property is served by private water well.
- 287 8. Sewage: The proposed building does not require sewer service or
288 septic.
- 289 9. The proposed use, with conditions, will ensure the use and enjoyment
290 of other property in the immediate vicinity. The subject property is
291 surrounding by other propertied utilized for single-family residential
292 purposes.
- 293 10. Adequate utilities, access roads, drainage and other necessary facilities
294 have been or are being provided for this development.
- 295 11. The proposed use will not create a need for additional off-street
296 parking.

- 297 12. The proposed use, with conditions, will not create a public nuisance.
298 13. The development will not depreciate property values within the
299 immediate vicinity of the subject property.
300 14. The proposed use will not create additional vehicular traffic on local,
301 county or state road systems.
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303 All members voting “Aye”, except Jacobson and Young voting “Nay”, motion
304 carries.
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307 **c. Conditional Use Permit Amendment 005-19: Amending plat for Fallen**
308 **Woods to adjust for a community well system**
309 **Property Location: 5147 Poplar Ave.**
310 **Applicant/Property Owner: Russell Gibbons (present), Gibbons**
311 **Construction of Lakeshore LLC**
312

313 Cotner read her staff report in for the record.
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315 Hallan stated that the impervious coverage is at 24.9%. The city should watch
316 the impervious coverage as land use permits come in, as this could easily go
317 over with a wider driveway. Laufman questioned if the well houses will be
318 removed. Gibbons stated yes they will be removed as there will be no need for
319 them with this new proposal. Fier questioned why the change now. Gibbons
320 stated that he recently found out that he didn't have to have a community
321 water system and the wells being proposed are easier to maintain. Young
322 stated this is a much better design based on his experience. If one fails it will
323 only affect 2 houses instead of them all or the cluster of homes. Jacobson
324 questioned why there were no wells within the center of the horseshoe drive
325 section. Hallan stated he received a revised drawing that shows 2 more wells
326 inside the loop. This revised drawing was not supplied in the packet. Jacobson
327 questioned that if one well fails is there enough room to come in and drill
328 another well. Hallan stated yes there is room to drill another well if one fails.
329

330 Laufman would like the “?” removed from #6.
331

332 **Motion:** Laufman motioned to recommend to the city council approval for
333 this Conditional Use Permit Amendment application to install individual
334 water systems that will be shared between two lots with the following
335 condition:
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- 337 1. Except as amended by these conditions, the development of the
338 subdivision and planned unit development shall be in substantial
339 conformance with the approved preliminary plat, site plan and elevations
340 that govern the general location of lots, roadways, buffers, infiltration
341 basins and improvements dated February 26, 2019.
342 2. Prior to construction, excavation, grading or other terrain disturbance,
343 final plans for all infrastructures and grading shall be submitted to and
344 approved by the City Engineer. The improvements (water, sewer, roads,
345 etc.) within the development shall be designed by a licensed engineer and
346 in accordance with the City of Nisswa design and construction standards.

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3. The Fire Marshall and/or Fire Chief shall review and approve general site accessibility and placement/ design of all fire hydrants (if required).
 4. The developer shall obtain appropriate trail access permits from the Minnesota Department of Natural Resources (if allowed). Copies of said permits shall be filed with the city.
 5. The street connection to Hills Crossing may not be constructed until the owner has legal access to said road.
 6. A 40 ft. wide easement shall be granted to the City of Nisswa for maintenance and replacement of the main sanitary sewer line. The city shall not be responsible for the repair and replacement of individual sewer services connected to the main sewer line.
 7. If the development is proposed to be constructed in phases, a phasing plan shall be submitted to city for review and approval subject to the following:
 - a. The plan shall include the location of proposed infrastructure in each phase and the general time frame for development of each phase.
 - b. Each phase must be capable of functioning with all the required improvements in place in the even the future phases are not completed or completed at a much later time.
 8. The 50 ft buffer (setback) around the perimeter of the planned unit development shall remain in a natural state in perpetuity (except for road access areas). The vegetation in the buffer shall not be altered. Structures may not be constructed in the buffer.
 9. Lots 1-28 may only be developed with single family homes.
 10. Lot 29 (greenspace) may not contain any structures. Vegetation located in Lot 29 shall substantially remain in a natural state. Vegetation may be removed from Lot 29 in order to construct trails, private roads, sewer system and water system. Reference to these provisions shall be made in the development covenants.
 11. Ownership and long-term maintenance responsibilities/obligations for the individual wells shall be described in the development covenants.
 12. Ownership and long-term maintenance responsibilities/obligations for the sewer system shall be described in the development covenants.
 13. Ownership and long-term maintenance responsibilities/obligations for the private street shall be described in the development covenants. Routine maintenance of the proposed private street (mowing along edges, crack sealing, etc.) shall also be described in the development covenants.
 14. Municipal sewage facilities shall be designed by a Registered Engineer, approved by the City Engineer, approved by the Minnesota Pollution Control Agency, and installed according to “Standard Utilities Specifications”, City Engineer’s Association of Minnesota.
 15. On-site wells shall conform to the Minnesota Department of Health Rules and Regulations MHD 210-230 “Water Well Construction Code”, and shall receive the approval of the City Engineer.
 16. The developer shall pay a park dedication fee in the amount of \$26,208 (28 homes x 2.25 avg. household size x \$416) in accordance with Section 4.11.10(B).

394 Findings of Fact:

395 On the conditional use permit and preliminary plat:
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1. The subject property is located at 5147 Poplar Avenue and is 12.91 acres.
 2. The subject property is zoned “Urban Residential.”
 3. The request is for a conditional use permit for a planned unit development and approval of the corresponding preliminary plat of “Fallen Woods.”
 4. The proposed development consists of 28 single-family residential building sites and one commonly owned lot to be utilized as “greenspace.”

404 On the conditional use permit (planned unit development):

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5. The proposed planned unit development is an appropriate use in the “Urban Residential” Zone. Residential planned unit developments are allowed in the “UR” Zone with a conditional use permit.
 6. The proposed density of the development is one unit per 20,000 sf of land area. One unit per 10,000 sf of land area is allowed.
 7. Lot 29 consists of 9.47 acres of commonly owned property. The proposed lot includes greenspace and private roadways.
 8. The development pattern preserves natural features including trees and other vegetation by utilizing a 50 ft buffer around the perimeter of the development. Trees and other vegetation will also be preserved in Lot 29.
 9. The planned unit development utilizes an efficient design with one “looped” street connected to one “through” street. The proposed layout suits the uniquely shaped parcel well.
 10. The proposed development pattern is in harmony with the land use density, transportation facilities, and community facilities objectives in the comprehensive plan. The plan identifies the subject property as “Downtown Transition” which is, “A designation for property near or around a Central Business District that is suited for high-density residential development.”
 11. The proposed residential lots are 62.5’ x 80’ (5,000 sf).
 12. Setbacks: All proposed residential lots are at least 15 feet from the perimeter of the planned unit development. Proposed structures are at least 30 ft from the perimeter of the planned unit development.
 13. Access: The PUD has direct access to Poplar Avenue. The development intends to connect the development to Hills Crossing once legal access is established. The streets within the development will be privately owned and maintained.
 14. Utilities: The PUD will be served by the municipal sewer system. The development will be served by privately owned individual wells. Each well will be shared between two dwellings.
 15. Open Space: Over 50% of the development will remain in permanent open space communally owned and maintained by the home-owner’s association.
 16. The use and enjoyment of other property in the immediate vicinity of the subject property will not be impaired. The surrounding uses include residential development (north and east), Paul Bunyan Trail (west) and a senior living facility (south). The development includes a 50 ft buffer (no buildings) around the perimeter of the subject property.
 17. The proposed development will not impede the normal and orderly development of surrounding vacant property.
 18. Adequate plans for utilities, access roads, draining and other necessary facilities have been submitted. The city engineer will approve final utility,

- 447 road and drainage plans.
- 448 19. The development has a sufficient number of off-street parking spaces.
- 449 Loading spaces are not necessary since the development does not include
- 450 commercial uses.
- 451 20. The development will not generate public nuisances such as offensive
- 452 odor, fumes, dust, noise, vibration. The development does not contain
- 453 street lights or other lighting that will impact adjacent properties.
- 454 21. The development will not depreciate property values within the immediate
- 455 vicinity.
- 456 22. The development will not cause the Local, County and State road systems
- 457 to exceed their safe carrying capacity.
- 458

459 On the preliminary plat:

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- 461 1. The subject is property zoned for the proposed use of a single-family
- 462 residential housing development.
- 463 2. There are no wetlands, bluffs or other sensitive natural features on the
- 464 subject property.
- 465 3. There are no non-conforming structures on the subject property.
- 466 4. Each of the proposed lots will be served by the municipal sewer system.
- 467 5. The property is not adjacent to a public water body so provisions for water
- 468 based recreation are not necessary.
- 469 6. Lot areas and dimensions are consistent with the zoning ordinance with
- 470 approval of the planned unit development.
- 471 7. Lot layouts are compatible with the existing layout of adjoining properties.
- 472 The development is adjacent to residential development located north and
- 473 east of the subject property. A senior living facility is located south of the
- 474 subject property. The property located west of the subject property is
- 475 vacant (Paul Bunyan Trail).
- 476 8. The planned unit development has 300 ft of frontage along Poplar Ave.
- 477 The development is accessible via Poplar Ave. The developer intends to
- 478 connect the development to Hills Crossing once public access is
- 479 established.
- 480 9. The design of the private streets will be reviewed and approved by the city
- 481 attorney.
- 482 10. Easements for the public sewer system and other infrastructure will be
- 483 required with conditions of approval.
- 484 11. All of the lots may be developed with single family homes without
- 485 requiring variances.
- 486 12. Survey standards: the preliminary plat was prepared by a licensed
- 487 surveyor (Patrick A. Trottier-PLS#41002) and conforms to the standards
- 488 in Minnesota Statutes.
- 489 13. Street improvement standards: The proposed private streets will be
- 490 constructed by the developer and maintained by the developer/home
- 491 owners association.
- 492 14. Sanitary provision standards: The municipal sewer system will be
- 493 extended to the development at the developer's expense.
- 494 15. Water supply standards: The development will be served by individual
- 495 wells shared between two dwellings. The system will be installed by the
- 496 developer at his expense. The system will be maintained by the

- 497 developer/home owners association.
498 16. Drainage/grading standards: The total proposed impervious surface
499 coverage of the development is 24.9% (25% allowed). An engineered
500 stormwater management plan has been submitted which meets the
501 minimum requirements of the zoning ordinance.
502 17. Dedication to the Public Standards: There are no public dedication
503 requirements since there are no public streets and land/parks proposed.
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505 Seconded by Jacobson, All members voting “Aye”, motion carries.
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- 507
508 **d. Variance application 017-19: to construct a 40 foot tall flag pole (25 ft**
509 **.allowed).**
510 **Property Location: located at structure located at corner of Club House**
511 **Road and Highway 371. (PIN 281730010230009).**
512 **Applicant/Property Owner: Interlachen Home Owners Association (no**
513 **one present)**
514

515 Cotner read her staff report in for the record.
516

517 Laufman would like to see this application denied at this time, and we can
518 discuss a possible ordinance amendment later in the meeting. She would not
519 be in favor of a 40 ft. flag pole.
520

521 **Motion:** Laufman motioned to deny this variance application 017-19 based on
522 the following Findings of Facts:

- 523 1. The subject property is located at structure located at corner of Club
524 House Road and Highway 371. (PIN 281730010230009).
- 525 2. The subject property is adjacent to Gull Lake and is zoned “Commercial
526 Waterfront – General Development”.
- 527 3. The variance request is to construct a 40 foot flag pole (25 ft allowed)
- 528 4. The impervious surface coverage of the property will not be majorly
529 affected by the addition.
- 530 5. Practical difficulties, as defined by ordinance, have/have not been
531 established.
 - 532 a. The property owner proposes to use the property in a reasonable
533 manner not permitted by an official control.
 - 534 i. Yes, the request to add a flag pole to the pre-existing parcel is
535 reasonable but not permitted under the current ordinance due to its
536 height alone.
 - 537 b. The plight of the landowner is due to circumstances unique to the
538 property not created by the landowner.
 - 539 i. No. The subject property is relatively level. The height and
540 location of the existing structures on the subject property and
541 adjacent properties do not create a visibility issue for a 25’ high
542 flag pole. The subject property does not have any unique
543 circumstances which would justify an 80 ft tall flag pole.
 - 544 ii. A flag pole meeting the requirements of the ordinance may be
545 constructed in multiple location of the subject property which
546 would be visible to residents/tenants of the development and the

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adjacent public right-of-way.

- c. The variance, if granted, will not alter the essential character of locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.
 - i. The proposed flag pole would alter the essential character of the locality. No other properties in the immediate vicinity of the subject property have structures similar in height as the proposed structure. The applicant has indicated their “practical difficulty” in complying with the ordinance is the fact the flag pole has been purchased and delivered which is an “economic consideration.” Economic considerations alone do not constitute practical difficulties.

Seconded by Young, All members voting “Aye”, except Fier “abstains” motion carries.

e. Ordinance Amendment – Accessory Structures 021-19
Applicant: City of Nisswa

Cotner read her staff report in for the record.

Harris noted that we need to keep “with setbacks of” within the first strikethrough. Laufman questioned why we would say 30 ft. on all sides when that lake requirement is 75 ft. Laufman would suggest that the verbiage state ”30 ft. or Lot Requirement Chart (4.5.2) or whichever is greater” to both sections suggesting a change.

Motion: Laufman motioned to recommend to the city council approval of proposed changes as amended, seconded by Fier. All members voting “Aye”, motion carries

f. Ordinance Amendment – Exterior Building Finishes 022-19
Applicant: City of Nisswa

Cotner read her staff report in for the record.

Laufman would like to add #10 to 4.8.3.A. “Structures greater than 10,000 sq. ft. will need to reference 4.8.14.

Motion: Laufman motioned to recommend to the city council approval of the proposed changes as amended, to including #10, seconded by Young. All members voting “Aye”, motion carries

MOTION: Jacobson motioned to close the public hearing at 8:03 pm, Harris seconded. All members voting “Aye”, motion carries.

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8. New Business

a. Flagpole & Flag Ordinance Discussion

Cotner presented 2 drafts of what a flagpole ordinance could look like. She had reached out to many cities and only two cities regulate flagpoles. Laufman would like to leave it as it is and not regulate or permit for them. Just leave as the height restriction same as the building height. Commission members agree to leave as is.

9. Old Business – None

10. Planning & Zoning Administrator’s Report

a. Permits Approved

19 Land Use Permits
1 Sign Permit
2 Peddlers, Canvasser, and Transient Merchant Permits issued

b. Violations List

4 letters have been sent. Two have not been resolved yet, one being from May.

c. Conditions Status Update

Cotner stated she started to follow up with all the conditions since 2017 and is about 80% done. She also is looking up IUP’s issued since 2014, as some IUP’s could have been issued for 5 years.

d. Purchased a Foot Candle Light Meter

Cotner noted she purchased a Foot Candle Light Meter, as the city has been looking to get one for a couple years’ now. She has used it a couple times and seems to work well.

e. Updated filings with Crow Wing County

Cotner stated she has completed submitting all filings to Crow Wing County since the beginning of 2017 to be recorded. Many have come back as completed already.

f. Big Axe Brewery Discussion

Cotner stated that last Wednesday she received a complaint that Big Axe has put up a tent and was selling popcorn on the street. Cotner went and talked with them and informed them they needed a permit. They informed her that

647 they didn't need a permit because they owned the street. They also noted they
648 will continue to sell popcorn in the future. Cotner contacted the City
649 Administrator/Clerk and the City Attorney to work on what the next steps will
650 be. Cotner just wanted to update the commission on what is happening.

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652 Holly Holm (Chamber Director) stated she had spoken with them as well and
653 received the same answer. She also has a concern about how this could affect
654 Crazy Days in Nisswa, as many store owners put tents up on the sidewalks
655 and streets.

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658 **11. Commissioners Questions/Comments**

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660 Harris wanted to note that Cotner is doing a great job getting things caught up and
661 up to speed. The commission members agreed.

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664 **12. Adjourn**

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666 **Motion:** Harris motioned to adjourn the July 9, 2019 meeting at 8:26 pm,
667 seconded by Young. All members voting "Aye", motion carries

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671 Respectfully submitted,

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Maggi Wentler, Deputy City Clerk