

**BECKER COUNTY BOARD OF ADJUSTMENT**  
**May 14, 2003**

**PRESENT:** **Board Members** – Charles Rew, Tom Oakes, Harry Johnston, Jim Elletson, Terry Kalil and Naomi Champ.  
**Zoning Staff** – Patricia Johnson, Zoning Administrator and Debi Moltzan.

Chairperson Naomi Champ called the meeting to order at 7:30 p.m. Rew made a Motion to approve the Minutes from the April 9, 2003 meeting. Kalil second. All in favor. Motion carried. Minutes approved.

**FIRST ORDER OF NEW BUSINESS: Josephine Johnson.** An application for a variance to allow a commercial use in a residential zone has been filed by Josephine Johnson for the property described as: Lot 4 Block 1 Mountain Meadow Acre; Section 36, TWP 139, Range 41; Detroit Township.

Johnson explained the application to the Board. They make crafts and would like to open a craft shop on the premises. The retail space would be 12 ft x 18 ft in the current detached garage. The shop would be open from Memorial Day until Labor Day; Tuesday through Friday; 10:00 am until 5:00 pm; and the first Saturday of each month from 10:00 am until 2:00 pm. If the business grows, they will relocate. If the business does not grown, they will discontinue. It would blend into the community. The land across the road is industrial.

Elletson questioned if the Johnson's were looking for something temporary or permanent. Kalil questioned if they anticipated a change in hours.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Larry Remmen, City of Detroit Lakes, in opposition of the application. At this time, testimony was closed.

Further discussion was held. Johnson stated that the Board of Adjustment could allow a use that was not prohibited by Ordinance if it was not directly listed. Johnson also stated that the City does have different regulations than the County. Johnston stated that he felt he could not support the variance. Oakes stated that the character of the neighborhood would not be changed.

**Motion:** Elletson made a motion to approve a variance to allow a retail craft shop to operate from Memorial Day until Labor Day; Tuesday through Friday; 10:00 am until 5:00 pm and the first Saturday of each month from 10:00 am until 2:00 pm with the stipulation that the craft shop can operate through Labor Day of 2005 based on the fact that the use would not alter character of the neighborhood. Kalil second. All in favor except Rew and Johnston. Majority in favor. Motion carried. Variance approved.

**SECOND ORDER OF NEW BUSINESS: Trevor and Gretchen Thilmony.** An application for a variance to construct a deck 17 feet from the ordinary high water mark

of the lake has been filed by Trevor and Gretchen Thilmony for the property described as: Lots 45, 46 & 47 RD Dutton Subdivision; Section 5, TWP 138, Range 41; Lake View Township.

The Thilmony's explained the application to the Board. The house was constructed before the Ordinance and the required setbacks cannot be met. The proposed deck would be in harmony with the neighboring properties.

Elletson questioned when the Thilmony's acquired the property. Champ questioned when the house was raised. Oakes questioned if there had ever been a deck on the front and if the sliding door had always been there. The Thilmony's stated that they bought the property in 1998 and raised the house in 2001. They replaced a rotten window with the sliding door and there had never been a deck on that side of the house.

Speaking in favor of the application was Gail Hahn, Lake View Township, but speaking on behalf of herself. No one spoke in opposition to the application. Written correspondence was received from Larry Remmen, City of Detroit Lakes, in opposition to the application. At this time, testimony was closed.

Discussion was held. Oakes stated that the Board measured the distance from the lake to be 39 feet instead of 29 feet. Thilmony stated that the measurement was taken off of an appraisal site map. Elletson stated that no matter what, the deck would be in the shore impact zone and he could not support that. Oakes stated that the Ordinance does allow a nonconforming deck addition of 15% of the house setback, allowing for a 6 ft deck. Elletson stated that he could support the 15% addition. Kalil stated that there should be something in front of the doorway for safety reasons. Further discussion was held.

**Motion:** Oakes made a motion to deny a variance for a 12 ft x 16 ft deck based on the fact that the deck exceeds what is allowed by the Ordinance in Section 6. Elletson second. All in favor except Rew, who abstained from voting. Majority in favor. Motion carried. Variance denied.

**THIRD ORDER OF NEW BUSINESS: John & Sharon Melting.** An application for a variance to construct an addition onto the house 39 feet from the centerline of the public alley has been filed by John Melting for the property described as: Lot 2 Birch Beach; Section 24, TWP 139, Range 39; Toad Lake Township.

The application was explained by the Melting's. The lot is substandard and size and the only logical location for an addition is to the rear of the cabin. The road is not a through road and does not have much traffic.

Discussion was held regarding the location of the rear lot line and the road easement.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Dean & Sandra Whited, in favor of the application. At this time, testimony was closed.

Further discussion was held regarding location, setback, lot coverage and type of road.

**Motion:** Johnston made a motion to approve a variance to allow an addition onto the cabin 39 ft from the centerline of the public alleyway based on the fact that the lot is a lot of record and there is no alternative location for an addition with the stipulation that the 25% impervious lot coverage cannot be exceeded. Elletson second. All in favor. Motion carried. Variance approved.

**FOURTH ORDER OF NEW BUSINESS: Cheryl Reichman.** An application for a variance to construct a garage 40 feet from the centerline of the township road has been filed by Cheryl Reichman for the property described as: Lots 9 & 10, Block 1; Blackhawk Mountain Beach First Addition; Section 5, TWP 138, Range 42; Lake Eunice Township.

Reichman explained the application to the Board and submitted a revised site plan to the Board, moving the garage further back from the road. The new location would be 53 feet from the centerline and 7 feet from the side lot line. It would be constructed with a drive-through door in order to access the lakeside of the property. The garage cannot be moved to the other side of the property because of the septic system.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from the Lake Eunice Township with concern about the garage being so close to the road. At this time, testimony was closed.

Discussion was held. Elletson stated that he like the revised plan because it put the garage further from the road.

**Motion:** Elletson made a motion to approve a variance to allow a garage twenty (20) feet from the right of way of the township road (53 feet from the centerline of the road) and seven (7) feet from the side lot line based on the size and shape of the lot and location of septic system. Oakes second. All in favor. Motion carried. Variance approved.

**FIFTH ORDER OF NEW BUSINESS: David Dorff.** An application for a variance to allow a storage shed ten (10) feet from the rear property line has been filed by David Dorff for the property described as: N 150 ft of the S 250 ft of Lot 5; Section 30, TWP 142, Range 38; Round Lake Township.

Dorff explained the application to the Board. With the location of the wetland, the storage shed cannot be located anywhere else. A new driveway will be constructed through the wetlands, with the proper permits from Soil & Water Conservation. An easement allows access from the property to the public road. The storage shed would be located ten feet off the rear lot line.

No one spoke in favor of the application. No one spoke against the application. There was no written correspondence either for or against the application. At this time testimony was closed.

Elletson questioned if the easement was on Dorff's land. Dorff stated that the easement is not on his land.

**Motion:** Johnston made a motion to approve a variance to allow a storage shed ten (10) feet from the rear lot line due to the wetland location. Oakes second. All in favor. Motion carried. Variance approved.

**SIXTH ORDER OF NEW BUSINESS: John Johnson.** An application for a variance to allow a structure sixty-six (66) feet from the centerline of the County road has been filed by John Johnson for the property described as: Lots 10, 11 & 12, Block 1; Townsite of Richwood; Section 2, TWP 140, Range 41; Richwood Township.

Johnson explained the application to the Board. The lots were platted many years ago and to meet today's required setbacks, there would be no room to build on the lot. The proposed structure would line up with other structures in the area.

Elletson questioned the right-of-way of County Road 34. Johnson stated that the right-of-way was 60 feet.

No one spoke in favor of the application. No one spoke against the application. There was no written correspondence either for or against the application. At this time testimony was closed.

Further discussion was held.

**Motion:** Elletson made a motion to approve a variance to locate a structure 32 ft x 36 ft with a 6 ft front porch 66 ft from the centerline of the County Road based on the fact that the lot is a substandard size lot of record and there is adequate room for parking. Kalil second. All in favor. Motion carried. Variance approved.

**SEVENTH ORDER OF NEW BUSINESS: George Stearns.** An application for a variance to construct a garage 15 ft from the rear property line has been filed by George Stearns for the property described as: Lot 4 Nemech Beach; Section 8, TWP 142, Range 40; Maple Grove Township.

Wm Stearns explained the application to the Board. Four of the Nemech Beach owners have purchased the property behind the public road and he was under the impression that the road was vacated and the garage would be located on their portion of the vacated road. Thursday of last week, Stearns found out that the road has not been recorded. Stearns stated that if the road is vacated then he owns an additional 33 ft, if not, he does not own it. The recording of the vacation has not been finalized.

Johnson stated that the Board cannot act until legal issues are resolved and finalized. Johnson also explained the 60-day rule.

At this time, Stearns requested that the application be tabled until the issue can be resolved.

**EIGHTH ORDER OF NEW BUSINESS: Eleanor Zurn.** An application for a variance to construct a dwelling 35 feet from the ordinary high water mark of the lake has been filed by Eleanor Zurn for the property described as: SW ¼ SW ¼; Section 17, TWP 142, Range 40; Maple Grove Township.

Zurn explained the application to the Board. The existing cabin was destroyed by arson and they would like to construct a new cabin in close proximity of the existing cabin. This is a peninsula and there is no location meeting the required setback.

Elletson questioned if the house would be approximately the same as the old footprint. Zurn stated it was. Oakes stated that there was no much choice in location.

No one spoke in favor of the application. No one spoke against the application. There was no written correspondence either for or against the application. At this time, testimony was closed.

Discussion was held. Elletson stated that the former structure was nonconforming, but there is no location meeting the required setbacks. Kalil stated that by allowing them to rebuild, they would be able to utilize the other structures on the property. Kalil also stated that arson is a type of hardship, it was not the landowner's doing.

**Motion:** Oakes made a motion to approve a variance to allow a 24 ft by 28 ft structure with a 10 ft by 10 ft addition to be constructed thirty-five (35) feet from the ordinary high water mark of the lake based on the fact that there is no location meeting the required setback. Rew second. All in favor. Motion carried. Variance approved.

**NINTH ORDER OF NEW BUSINESS: Gene & Constance Zick.** An application for a variance to construct a garage 45 feet from the centerline of the County Road has been filed by Gene & Constance Zick for the property described as: SW ¼ of SW ¼ Ex .06 ac to NW Bell Telephone Co.; Section 24, TWP 140, Range 39; Height of Land Township.

Zick explained the application to the Board. They would like to replace the existing garage with a new garage. Due to the well and sewer location, they cannot move the garage further from the road. If they moved the location of the garage, they would lose their front yard.

Kalil questioned if the driveway would change. Zick stated that it would not; they now have a circular drive. Champ was concerned about backing out onto the road from the garage. Zick stated that the location of the garage and the design of the driveway, they

would not be backing out onto the road. Johnston questioned the height of the garage. Zick stated that there would be 10 ft sidewalls. Elletson questioned the right-of-way. Johnson stated that the right-of-way is 66 ft, 33 ft on each side of the centerline.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Terry & Susan Liem, in favor of the application. At this time, testimony was closed.

Further discussion was held.

**Motion:** Johnston made a motion to approve a variance to construct a garage forty-five (45) feet from the centerline of the County Road based on the fact that there is no other location meeting the required setbacks. Kalil second. All in favor. Motion carried. Variance approved.

**TENTH ORDER OF NEW BUSINESS: Covell Heitman.** An application for a variance to construct a foundation under an existing home 69 feet from the centerline of a County Road and 32 ft from the ordinary high water mark of the lake has been filed by Covell Heitman for the property described as: Lot 15 & 16, Aljoe Beach; Section 11, TWP 139, Range 40; Erie Township.

Hietman explained the application to the Board. The foundation is crumbling and needs to be fixed. The deck would be removed, house raised, new foundation put in, house set down and deck replaced. When completed, the cabin would sit 9 inches higher than what it is now.

No one spoke in favor of the application. No one spoke against the application. There was no written correspondence either for or against the application. At this time, testimony was closed.

Discussion was held. Kalil stated that the structure could not be moved either forward or backward. Elletson agreed.

**Motion:** Kalil made a motion to approve a variance to construct a foundation under the existing dwelling sixty-nine (69) feet from the centerline of the County Road and thirty-two (32) feet from the high water mark of the lake based on the fact that this is a lot of record and there is no alternative location meeting the required setbacks. Oakes second. All in favor. Motion carried. Variance approved.

**ELEVENTH ORDER OF NEW BUSINESS: Michael & Tracy Vandal.** An application for a variance to construct a garage 47 feet from the ordinary high water mark of the lake and 20 ft from the cul-de-sac has been filed by Michael & Tracy Vandal for the property described as: Lots 10 & 11 Tanglewood Estates; Section 19, TWP 138, Range 42; Lake Eunice Township.

Vandal explained the application to the Board. The area in which the garage would be located is very wooded with brush and foliage.

Kalil questioned if the view from the neighboring lot would be obscured and questioned why it could not be located on the other side of the lot. Vandal thought his drainfield was somewhere on that side.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received with concerns about the garage being so close to the cul-de-sac. At this time testimony was closed.

Discussion was held. Kalil stated that there needed to be a hardship of the property in order to grant a variance. There was already a house and garage on the property, giving the property reasonable use. Champ stated that the structure would be located in the shore impact zone. Elletson stated that guidelines for granting a variance and stated that according to the guidelines, a variance could not be approved. Elletson suggested that storage space could be rented or looked for another piece of property to build on. Kalil stated that the small trees could not be removed from the shore impact zone.

**Motion:** Kalil made a motion to deny the variance to construct a garage forty-seven (47) feet from the ordinary high water mark and twenty (20) feet from the right-of-way of the cul-de-sac based on the fact that no hardship could be found and that there is reasonable use of the property. Elletson second. All in favor. Motion carried. Variance denied.

**TWELVTH ORDER OF NEW BUSINESS: Informational Meeting.**

The next informational meeting is scheduled for Thursday, June 5, 2003 at 8:30 am at the Planning & Zoning Office.

Since there was no further business to come before the Board, Oakes made a motion to adjourn the meeting. Rew second. All in favor. Motion carried. Meeting adjourned.

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Naomi Champ, Chairperson

ATTEST \_\_\_\_\_  
Patricia Johnson, Zoning Administrator