

**Becker County Board of Adjustments**  
**August 13, 2003**

**Present:** Members Naomi Champ, Tom Oakes, Charles Rew, Harry Johnston, Terry Kalil and Jerome Flottesmesch. Zoning Staff: Patricia Johnson, Administrator and Debi Moltzan.

Chairperson Champ called the meeting to order at 7:30 p.m. Oakes made a motion to approve the minutes from the July 9, 2003 meeting. Kalil second. All in favor. Motion carried.

**FIRST ORDER OF BUSINESS: Melvin Glass.** An application for a variance to construct a dwelling, deck and garage 72 feet from the centerline of the Township Road, 5 feet from the side lot line and 90 feet from the ordinary high water mark of the lake has been filed for property described as Lot 10, Block 3 Blackhawk Mountain Beach First Addition, Section 32, Audubon Township, Little Cormorant Lake.

Glass explained the application to the Board. They would like to replace the present mobile home with a different mobile home and add a garage to make the place a year round place.

Flottesmesch stated that there was discussion amongst the Board as to where the OHW was located. The stakes for the project were currently 100 feet from the present waterline and it is possible that the OHW is below the current waterline.

Oakes questioned if the small storage shed would be removed. Glass stated that the shed has already been removed. Johnson questioned what the culvert draining into the lake was for. Glass stated that the culvert was a township culvert that handles drainage from the township road.

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

Further discussion was held. Kalil thought that the configuration was the best possible for the lot. Flottesmesch stated that the plan was good use of the property. Oakes stated that this is the best use of the property. Johnston stated that the proposed setup is a better plan than what is there now. Champ questioned the lot coverage. Johnson stated that it was 5.7%.

**Motion:** Oakes made a motion to approve the variance as submitted based on the fact that the proposed plan would be the best use of the property. Johnston second.

Flottesmesch questioned if the setbacks should be changed slightly to reflect the measurements taken during the tour.

Oakes made a motion to amend his original motion to read: approve a variance to construct a dwelling, garage and deck 100 feet from the present water level and 70 feet from the centerline of the township road based on the fact that this would be the best use of the property. Johnston second. All in favor. Motion carried.

**SECOND ORDER OF BUSINESS: Daniel Gust Jr.** An application for a variance to construct a garage 49 feet from the centerline of the township road and 5 feet from the side lot line has been filed for property described as Lot 3 Block 1 Isthmus Beach Seventh Addition, Section 27, Lake Eunice Township.

Gust explained that the garage has been repositioned to be 11 ft from the side lot line so the only variance needed would be from the road.

Discussion was held regarding the setback from the road and the fact that even if there is not a physical road in that location, there is still a platted road recorded. Johnston stated that there was another variance granted in that general vicinity, which was 20 ft from the road right of way and the Board should be consistent.

Gust stated that he has downsized the garage and that the garage would be less than 18 ½ feet high.

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. Flottesch stated that this would be good use of the property and the new plan would meet the side yard setback. Oakes agreed.

**Motion:** Kalil made a motion to approve a variance to construct a garage 20 feet from the road right of way based on the size of the lot with the stipulation that the garage be under 18 ½ feet high and deny the variance 5 feet from the side lot line based on the fact that there is no hardship to justify the decrease in side lot line setback. Oakes second. All in favor. Motion carried.

**THIRD ORDER OF BUSINESS: Darrell Delmain.** An application for a variance to construct a garage 95 feet from the county road due to the location of the drainfield has been filed for the property described as Pt NE ¼ SE ¼ Beg 2344.85 feet N of SE Cor Sec Th n 310 ft W 225.03 ft S 310 ft & E 225.03 feet to Beg; Section 19, Silver Leaf Township.

Delmain explained the application to the Board. The placement of the new garage would actually allow them to back out of the garage and enter into the traffic on the county road rather than backing out onto the road.

Flottesch questioned if the entrance to the garage would be parallel to the road. Delamin stated that it would.

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. Flottesch stated that this would improve a safety concern and the garage is still far enough off the road right of way. Kalil stated that the drainfield prohibits the garage from being moved further back.

**Motion:** Johnston made a motion to approve a variance to allow a garage 95 feet from the centerline of the county road based on the size and shape of the lot and the location of the septic system with the stipulation that the garage doors must be parallel not perpendicular to the road. Flottesch second. All in favor. Motion carried.

**FOURTH ORDER OF BUSINESS: Douglas Barth.** An application for a variance to construct a dwelling 110 feet from the ordinary high water mark of two natural environment lakes has been filed for the property described as Lot 1 Secluded Acres, Section 13, White Earth Township, Gaybow (Norcross) and Casebeer Lakes.

No one was present to explain the application. Flottesch asked Chairperson Champ to place the application at the end of the agenda to allow the applicant time to attend the meeting. Chairperson Champ placed the application at the end of the agenda.

**FIFTH ORDER OF BUSINESS: Donald Driscoll.** An application for a variance to construct a deck 6 ft from the side property line and 36 feet from the ordinary high water mark of the lake has been filed for the property described as Lot 2 Block 1 Isthmus Beach, Section 27, Lake Eunice Township, Lake Eunice.

Driscoll explained the application to the Board. The house was constructed in 1994 with French Doors on the lakeside. At the time the house was planned, the doors were to be ground level. After the construction was complete, the doors are now 2 ft 6 inches above the ground.

Kalil questioned what material was placed under the rock. Driscoll stated that there is landscape fabric under the rock.

Discussion was held regarding lot coverage, side lot line setback, lake setback, deck versus patio, and the existing boathouse. Johnson questioned when the roof was replaced on the boathouse. Driscoll stated that was done in 1994. Oakes questioned if there were living quarters in the boathouse. Driscoll stated that the living quarters were removed when the new roof was put on the boathouse.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Mike Gillen, in favor of the application. At this time, testimony was closed.

Further discussion was held. Flottemesch stated that this is very similar to another application that was denied last month. Since the structure is a new structure, the deck should have been a consideration at that time. There is an alternative by constructing a patio. The proposed deck is partially in the shore impact zone. Kalil stated that the proposed deck is located within the shore impact zone and the existing structures already exceed the allowable 25% impervious lot coverage.

**Motion:** Kalil made a motion to allow a 6 ft side deck not to go any closer to the lake than the present house and allow a pervious lakeside patio and deny a variance to allow a lakeside deck based on the fact that this is new construction, the structure would be located in the shore impact zone and the property already exceeds the allowable 25% impervious lot coverage with the stipulation that no more impervious material can be placed on the property. Flottemesch second. All in favor. Motion carried.

**SIXTH ORDER OF BUSINESS: Barry Ahmann.** An application for a variance to allow 2 substandard size contiguous lots in the same ownership to stand alone as separate buildable lots has been filed for the property described as Lots 3 & 4, Block 1 Golden Fawn Estates, Section 23, Erie Township, Perch Lake.

Ahmann explained the application to the Board. When he bought the property, the former owner showed him the stakes for both lots and explained his desire to construct another home on the vacant lot, so he assumed that the lots could be split. The upkeep is too much for him and there is a financial strain.

Johnson stated that the lots were combined by deed in 2000, then sold to the former owner and now sold to Ahmann. Champ questioned the substandard size lots. Johnson stated that this lake is a natural environment lake and the requirements are 200 feet of lake frontage and 80,000 sq ft of lot area.

No one spoke in favor of the application. Speaking in opposition to the application were: Jeff Stowman, Dave and Barb Balfour, and Clem and Yvonne TeVogt. Written correspondence was received from Curtis & Sharon Johnson, David & Barbara Balfour, Jeff Stowman and Susan & John Klassen. At this time, testimony was closed.

Further discussion was held. Flottemesch stated that there is a reason for the Ordinance and one of them is to reduce the number of substandard size lots. These lots are not only contiguous in the same ownership, but both lots have been on one deed for three owners. Economics alone is not a hardship. The rest of the Board agreed.

**Motion:** Flottemesch made a motion to deny a variance to allow two substandard size contiguous lots in the same ownership to stand alone as separate buildable lots based on the fact that there is no hardship of the property to allow a variance. Oakes second. All in favor. Motion carried.

**SEVENTH ORDER OF BUSINESS: David & Robert Caspers.** A request for a variance to allow an RV and deck 27 feet from the township road and 41 feet from the

ordinary high water mark of the lake has been filed for the property described as W 50 ft of E 100 ft of Lot 2 S of TWP Road, Section 26, Maple Grove Township, Strawberry Lake.

Sharon Paul and Kathy Clark explained the application to the Board. They would like to place a recreational vehicle and a screen porch on the property in order to use the property. The small lot does not allow much room for placement.

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. Johnson stated that the Recorder's Office did not have record of the road width. Flottemesch stated that it appeared from the stakes they found, that the roadway may only be a 33 ft road. Flottemesch stated a recreational vehicle would be reasonable use of the property.

Further discussion was held regarding the location of the RV, the location of the porch, string line, roadway, and shore impact zone. Oakes questioned if the porch could be larger than the dwelling. Johnson stated that there were no regulations prohibiting this.

**Motion:** Oakes made a motion to approve a variance to allow a recreational vehicle and three season porch, with a maximum width of 12 ft, 50 ft from the ordinary high water mark of the lake, 5 ft from the road right of way with the stipulation that the porch must be removed from the property when the recreational vehicle is removed based on the fact that this would give the substandard size lot reasonable use. Flottemesch second.

Kalil questioned the string line setback and the 50 ft setback and what size structure could really be put in there. Johnson felt that if the distance given was the string line, then it would give an opportunity to move both the RV and porch closer to the lake than what the RV is now. Further discussion was held on the size of the lot, the location of the RV, and the current setback of the RV.

Oakes withdrew his motion. Flottemesch withdrew the second on the motion.

Oakes made a new motion to approve a variance to allow a recreational vehicle and a maximum 12 ft x 24 ft three season porch with a lake setback of the current string line and the recreational vehicle five feet from the road right of way with the stipulation that the porch be removed from the property when the recreational vehicle is removed based on the fact that this would give the property reasonable use. Flottemesch second.

Further discussion was held to clarify the setback from the lake.

Oakes made another motion to amend the previous motion to state: allow a recreational vehicle to remain in the current location and allow a maximum 12 ft x 24 ft three season porch with the stipulation that the porch be removed from the property when the

recreational vehicle is removed based on the fact that this would give the property reasonable use. Flottemesch second. All in favor. Motion carried.

**EIGHTH ORDER OF BUSINESS: Pat Sweeney.** A request for a variance to allow a substandard size lot, 26,689 sq ft in size has been filed for the property described as Pt of Govt Lot 4; Comm NW Cor Sec 16, Th S 194.98 ft, Th E 1084.31 ft to POB; Th SW 282.79 ft, Th E 321.54 ft to Wly Ln Town & Cntry Est, Th NE 254.21 ft, Cont Nly Al; Sec 16, Detroit Township.

Sweeney explained the application to the Board. This pie shaped lot would be sold to the Grabow's, who have a lake lot directly across the road. Grabow has always parked his boats and things on this piece of property, now it would be sold to him.

Kalil questioned if a site permit has been issued to this tract. Sweeney stated it had and construction has already been started. Kalil stated that in reality, if this property is zoned agricultural, then this subdivision would not be creating one substandard size lot, but two substandard sized lots. Johnson stated that this issued is scheduled to go before the Planning Commission to rezone this piece to residential. Flottemesch stated that currently the property is zoned agricultural and must be treated that way, not as residential.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Floyd Shores Lake Association, in favor of the application if this parcel were to be tied by deed to the lake lot. At this time, testimony was closed.

Kalil stated that she was having a problem accepting this because the site permit was issued on a legal lot, now this subdivision would make that legal lot two substandard size lots. Kalil stated that she could not see a hardship. Storage of boats is not a hardship.

Johnson stated that with the comprehensive plan, all property within 1000 feet of a lake will be residential. Flottemesch stated that residential lots require one acre and then there would not be a need for a variance. Sweeney stated that one-acre would not have worked in this case because the construction of the house had already started. Flottemesch stated that if the intent was residential lots, then it should have been done correctly in the beginning. The Board felt that they would need the consent of Grabow to tie this parcel to his existing lake lot. Kalil felt that there were two option at this time; one would be to table until Grabow could be present and the other would be to deny the variance.

**Motion:** Kalil made a motion to deny the variance to allow a substandard size lot 26,689 sq ft in size based on the fact that there was no hardship of the property justifying the creation of two substandard size lots. Rew second. All in favor. Motion carried.

**NINTH ORDER OF BUSINESS: Dennis Craswell.** A request for a variance to allow a dwelling and garage 58 feet from the township road and 86 feet from the ordinary high

water mark of the lake for the property described as Lots 48 & 49 Block 1 Abbey Lake Estates, Lake View Township, Abbey Lake.

Craswell was not present to explain the application to the Board. Johnson explained the application to the Board.

Flottemesch stated that the Board had viewed the property and that this is a substandard size lot and with the depth of the lot, the required setbacks cannot be met.

No one spoke in favor of the application. Gail Hahn, Lake View Township, stated that the Township Board did not have a problem with the lake setback but was concerned about the road setback and parking of cars. There was no written correspondence either for or against the application. At this time, testimony was closed.

Further discussion was held regarding the lake setback, road setback, size of the lot, garage location and entrance to the garage.

**Motion:** Flottemesch made a motion to approve a variance to allow a house and garage 86 feet from the ordinary high water mark of the lake and 58 feet from the centerline of the township road based on the size of the lot of record with the stipulation that the garage doors are parallel with the road, not perpendicular to the road. Oakes second. All in favor. Motion carried.

**TENTH ORDER OF BUSINESS: Douglas Barth.** A request for a variance to allow a dwelling 110 feet from the ordinary high water mark of two natural environment lakes has been filed for the property described as Lot 1 Secluded Acres, Section 13, White Earth Township, Gaybow (Norcross) and Casebeer Lake.

No one was present to explain the application to the Board. Johnson explained the application to the Board.

The Board felt that this was a reasonable location that would allow good use of the property.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Scott Dirks, in favor of the application. At this time, testimony was closed.

**Motion:** Kalil made a motion to approve a variance to allow a dwelling 110 feet from two natural environment lakes based on the size and shape of the lot and that this would give the property reasonable use. Flottemesch second. All in favor. Motion carried.

**ELEVENTH ORDER OF BUSINESS: Informational meeting.** The next informational meeting is scheduled for September 4, 2003 at 8:30 a.m. Due to the number of applications for the next meeting, two informational meetings will be needed. Board Members will be contacted and decide which two dates will work the best. Due to

conflicts of schedules, the Hearing date will also have to be changed to Tuesday, September 9, 2003 at 6:00 p.m. rather than Wednesday, September 10, 2003 at 7:00 p.m.

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

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Naomi Champ, Chairperson

ATTEST \_\_\_\_\_

Patricia L. Johnson, Zoning Administrator