

**Becker County Board of Adjustments  
Regular Meeting  
August 11, 2004**

**Present:** Members Jerome Flottemesch, John Tompt, Tom Oakes, Harry Johnston and Terry Kalil; Zoning Administrator Patricia Johnson, and Zoning Staff Debi Moltzan.

Chairman Johnston called the meeting to order at 7:00 p.m. Debi Moltzan recorded the minutes.

Kalil stated that a few minor corrections needed to be made to the June 2004 minutes. These corrections included:

Bottom of Page 1 last line should read “may not imply” instead of “may no imply”

4<sup>th</sup> Order, 6<sup>th</sup> Paragraph, 4<sup>th</sup> line should read, “Kalil asked” instead of “Kalil as”

With these corrections, Oakes made a motion to approve the June minutes. Flottemesch second. All in favor. Motion carried.

Kalil made a motion to approve the July 2004 minutes. Tompt second. All in favor. Motion carried.

**FIRST ORDER OF BUSINESS: Beverly Olson.** This application was postponed at the July 2004 meeting to allow Ms Olson to come up with an alternate plan. The original request was for an addition onto an existing structure 2 ft from the side property line, 39 ft from the OHW of the lake and 61 ft from the centerline of the County Road.

Frank Hanson explained the revised plan to the Board. Instead of an addition, the existing structure would be removed and a new structure built. The new structure would be 4 ft from one side lot line, 10 ft from the other side lot line, 51 ft from the edge of the county road, and behind the existing deck. Lot coverage would be reduced to 26.4%. The house would be within the string line and the only tree on the lot would be saved.

Kalil question if this would be a new house. Hanson stated that it would be a 1-½ story new house.

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.

Kalil stated that this is a narrow lot and the new plan is a good option. Flottemesch stated that usually 10 ft is requested, as the side lot line setback to allow for emergency vehicles to pass by the structure and that 5 ft is minimum side yard setback. With this lot, both cannot be met so it is better to sacrifice one side to meet one requirement on the other side.

Kalil stated that it is her understanding that the road is not in the center of the right of way. Olson stated that the road does cut into her lot. Flottemesch stated that the road right of way on the opposite side of the road is pervious, which could be a trade off for the extra impervious surface on the lakeside of the Olson property. Oakes stated that Olson has followed the suggestions of the Board to come up with a better plan. Olson then requested that she be allowed to keep the asphalt driveway until next spring, when most of the construction mess is done.

**Motion:** Flottemesch made a motion to approve a variance to allow a new dwelling at the string line from the lake, which would be behind the existing deck; 4 ft from the side lot line; 51 feet from the centerline of the county road as per revised plan submitted to the Zoning Office based on the size of the lot of record with the stipulation that the hard surface be removed by September 1, 2005. Tompt second.

Kalil questioned the amount of impervious, since the plan was over the 25% and what needed to be added to the motion.

Flottemesch amended his motion to read: approve a variance to allow a new dwelling at the string line from the lake, which would be behind the existing deck; 4 ft from the side lot line; 51 feet from the centerline of the county road; and allow 26.5% impervious lot coverage as per revised plan submitted to the Zoning Office with the stipulation that the hard surface be removed and the property be brought into compliance by September 1, 2005. Tompt second. All in favor. Motion carried.

**SECOND ORDER OF BUSINESS: Rod Nord.** Request a variance to construct a garage 74 feet from the centerline of the township road for the property described as: Lots 8 & 9, Sportsman Beach; Section 10, TWP 139, Range 40; Erie Township. PID No. 10.0722.000.

Nord explained the application to the Board. The project was started, with a permit being obtained for an addition and an attached garage. After the addition was constructed, it was found that the attached garage would not meet the required setback from the road.

Flottemesch questioned the size of the garage; the application has two different sizes. Nord stated that he would like a 24 ft garage, but is asking for a 22 ft garage as a compromise.

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 regarding the setback from the road, the topography, and the size of the garage. Kalil stated that the field measurements showed that one garage corner was 78 feet from the centerline and one corner measured 75 ft, based on a 22 ft garage. Flottemesch stated that a little larger garage would be nicer for maneuvering inside the garage with the door closed.

**Motion:** Flottemesch made a motion to approve a variance to allow a garage 73 feet from the centerline of the township road based on the topography of the lot. Oakes second. All in favor. Motion carried.

**THIRD ORDER OF BUSINESS: Jacqueline Palmer.** Request a variance to keep the existing guest house; the garage was converted to a guest house without a permit; on the property described as: Lot 9 and Pt of Lot 8, Hannusch First Subdivision; Section 26, TWP 138, Range 42; Lake Eunice Township. PID No. 17.0714.000.

Patty Herden, daughter of Palmer, and Palmer, explained the application. They explained that the family is quite large with 5 children and 17 grandchildren. The cabin is a 2-bedroom cabin and is too small for the family and cannot afford to add onto the cabin. The garage is used for guest and the garage does have a bathroom.

Flottemesch questioned if the caboose structure was on the Palmer property and if it was, how was it used. Palmer stated that it was on her property and is now used for storage because it is in bad shape. Kalil questioned when the property was acquired. Palmer stated that she got the property in either 1981 or 1982. Kalil questioned if the structure was a garage at that time. Palmer stated it was and that no changes to the outside dimensions were made. Herden stated that they have plenty of off street parking.

Speaking in favor of the application were:

Greg Hernden. Hernden stated that the inside of the structure had guest rooms 20 some years ago and that the hardship is that there is not enough room in the cabin for the entire family. The garage door was removed last year and replaced with windows, new roof and new siding.

Rosemary Bullock. Bullock was not against the project because it looks good,

Speaking against the application were:

Arlene Micklay. Micklay wants restoration ordered because the garage was converted without a permit and the lot is not large enough for a guesthouse.

Katherine Cronin. Cronin affirmed what Micklay stated.

Written correspondence was received from:

Rosemary Bulluck, Rodney Lundeen, and Toby (last name unreadable) in support of the application.

Justin Erickson in support of the application.

Ken Magnuson against the application.

Arlene Micklay against the application.

At this time, testimony was closed.

Further discussion was held. Kalil read the portion of the Zoning Ordinance in regards to what conditions a variance can be granted. Kalil stated that the Board has dealt with

issues like this before. The structure was intended to be a garage and clearly is not a garage. Tompt questioned how long it has been since a car has been in the garage. Palmer thought it may have been 1982 because the garage door has not been functional. Flottesmesch stated that this is a sizeable lot with restrictions due to the lake and stream and that this may have been the proper place to locate the garage when it was built; but a guesthouse cannot be allowed on this lot. Kalil questioned what precedent would be set by allowing a conversion to remain. Flottesmesch stated that there must be a hardship of the property to allow a variance and there is no hardship to allow a guesthouse on a substandard lot.

Hernden questioned if the Ordinance limits the number of bedrooms on a lot. Johnston stated that there is no Ordinance limiting the number of bedrooms in a structure.

**Motion:** Kalil made a motion to deny the request to allow the guesthouse to remain based on the fact that the lot is not large enough to accommodate a guesthouse; the structure was permitted as a garage and converted without proper permits; and that the structure must be converted back to a garage by April 1, 2005 with all living facilities including bathroom removed by this time. Flottesmesch second. All in favor. Motion carried.

**FOURTH ORDER OF BUSINESS: Richard Hulswit.** Request a variance to construct a house 50 ft from the ordinary high water mark of Strawberry lake and 20 ft from the centerline of the township road and allow the use of the recreational vehicle until construction for the property described as: Pt of Govt Lot 6; Section 26, TWP 142, Range 40; Maple Grove Township. PID No. 20.0402.000.

Cindy Hulswit explained the application to the Board. The lot is 75 ft by 110 ft and they would like to place a 20 ft by 36 ft structure on the property.

Flottesmesch questioned if the footprint for the house was given if the recreational vehicle would be handled internally. Johnson stated that the recreational vehicle could be placed within the footprint of the dwelling. Kalil questioned if the holding tank has already been installed. Hulswit stated that it was not.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Maple Grove Township in opposition to the location of the septic tank. At this time, testimony was closed.

Further discussion was held. Oakes stated that this is a small lot and the variance request is similar to the one on the adjacent lot. Kalil stated that her recollection of the road is that it is a cartway. Johnston stated that this was a request for a moderate house.

**Motion:** Oakes made a motion to approve a variance to allow a cabin 50 feet from the ordinary high water mark of the lake and 20 feet from the centerline of the road based on the fact that the structure would be located outside the shore impact zone and this is a substandard size lot of record. Flottesmesch second. All in favor. Motion carried.

**FIFTH ORDER OF BUSINESS: Boon Ang.** Request a variance to construct a dwelling 65 feet from the centerline of the township road and 92 feet from the ordinary high water mark of the lake for the property described as: Pt Lot 2, Beg 650 ft S 311.2 ft NW & 50 ft W of NE Cor Lot 2; Section 17, TWP 142, Range 40; Maple Grove Township. PID No. 20.0318.000.

Ang explained the application to the Board. He has a purchase agreement on this property and would like to build a retirement home. The size of the lot will not allow him to meet the required setbacks both from the lake and the road.

Kalil questioned what the side yard setback would be. Ang stated that the side yard setback will be at least 10 feet on each side. Flottemesch stated that the proposed location is much further from the lake than the adjoining neighbors.

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 regarding the lake setback, road setback, location of neighboring structures, amount of impervious lot coverage and the possible wetland at the rear of the property.

**Motion:** Flottemesch made a motion to approve a variance to allow a dwelling at a lake setback equivalent to the established building line; 65 feet from the centerline of the township road and allow 25% impervious lot coverage due to the size and shape of the lot; and to deny the original request for 92 feet from the OHW. Tompt second. All in favor. Motion carried.

**SIXTH ORDER OF BUSINESS: Loren Anderson.** Request a variance to reconstruct a deck 45 feet from the ordinary high water mark of the lake and construct an addition onto an existing house for the property described as: 350 ft lying 735 ft SW of NE Cor of Lot 5; Section 8, TWP 142, Range 37; Forest Township. PID No. 12.0059.000.

Anderson explained the application to the Board. The existing balcony deck has become unsafe and is in need of repair. The deck would be reconstructed and a outside egress stairway would be added. A house addition would be constructed to the rear of the existing cabin, meeting the 100 ft setback and be attached to the existing home. After meeting with the Township and Lake Association, the deck is actually 57 ft from the OHW, not 45 ft as the architect shows.

Flottemesch questioned how much lake frontage was with this lot. Anderson stated that there is 350 feet of lake frontage and almost 6 acres. Tompt questioned how the structures would be attached. Anderson stated they would be attached by a fully enclosed breezeway; the structure would be functional as one contiguous unit.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from:

Bad Medicine Lake Association in favor of the application;

Forest Township in favor of the application;

Barb Christianson in favor of the application.

At this time, testimony was closed.

Discussion was held regarding the setback of the existing structure, location of the proposed addition, topography including a steep slope, and size of the lot. Kalil questioned how this application was different from the one denied last month. Tompt stated that this addition meets the required setback and only a portion of the deck may be in the shore impact zone. Kalil further stated that the existing structure is still nonconforming and even though the addition meets the required setback, it will still be connected to a nonconforming structure. Flottemesch stated that this is large acreage; if Anderson wanted to, he could subdivide and construct a new house on the other lot. Anderson stated that there would be more of an impact to the lake if the land were to be subdivided.

Kalil asked the Board what impact there would be if the old structure would be removed. The old structure is constructed below the steep slope. Further discussion was held regarding the steep slope and proposal. Flottemesch stated that if the lot were to be subdivided, then a new lake access would be made and the new lot would be dealing with a bluff. The existing structure is in relatively good shape and there may be more harm in removing it than allowing an addition to be attached to it.

**Motion:** Flottemesch made a motion to approve a variance to reconstruct the existing deck 45 feet from the ordinary high water mark and allow an exterior egress off the deck based on the fact that the reconstruction would improve the safety of the deck and provide a safe egress from the house; and approve a variance to construct an addition onto the existing dwelling, with the addition being 100 feet from the OHW, based on the topography of the lot and the fact that the removal of the existing structure would be more detrimental to the lake than an addition onto the existing cabin; with the stipulation that this is the primary residential site for the lot and that the lot can never be subdivided. This does not exclude a future guesthouse, if the guesthouse meets the criteria of the Ordinance. Oakes second. All in favor. Motion carried.

**SEVENTH ORDER OF BUSINESS: Informational Meeting.** The tentative date for the next informational meeting is scheduled for Thursday, September 2, 2004 at 8:30 a.m. at the Planning & Zoning Office.

**EIGHTH ORDER OF BUSINESS: Watson Letter.**

Flottemesch stated that he received a letter from Mike Watson regarding the variance denial and removal deadline of November 1, 2004. Flottemesch stated that the County Attorney's Office has directed the Board that they are a judicial board and cannot discuss

these types of matters with individuals. Flottemesch requested that the Zoning Office respond to this letter.

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

\_\_\_\_\_  
Harry Johnston, Chairman

ATTEST

\_\_\_\_\_  
Patricia Johnson, Administrator