

**Becker County Board of Adjustments
September 8, 2004**

Present: Members John Tompt, Jerome Flottemesch, Tom Oakes, Harry Johnston, Jim Elletson, 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.

Minute approval. Tompt stated that there was one correction to the minutes of the August 2004 Appeal Meeting. The sixth paragraph should be changed to read, “see any”. With this change, Flottemesch made a motion to approve the minutes for the August 2004 Appeal Meeting with the one correction. Oakes second. All in favor. Flottemesch stated that there was one correction to the August 2004 Regular Meeting. The fourth page, second paragraph should have the word “long” added to the sentence. Oakes made a motion to approve the minutes for the August 2004 Regular Meeting with the one correction. Flottemesch second. All in favor. Motion carried. Minutes approved.

FIRST ORDER OF BUSINESS: Lucille Walker. Request a variance to construct a dwelling 30 feet from the centerline of the township road and 30 feet from the ordinary high water mark of the lake has been filed for the property described as: Lot 6 of Auditor’s Sub being pt of Lot 4; Section 30, TWP 142, Range 38; Round Lake Township. PID Number 25.0456.000. The property is located on Many Point Lake; project address 35883 Whaley’s Road.

Walker explained the application to the Board. This lot was acquired in 1955 with two cabins on one lot. The foundation is in need of repair; which a previous variance was denied to fix the foundation. The road divides the property and there is a steep hill behind the road, further limiting the buildable area. At the suggestion from the Board at the last variance meeting, both cabins will be removed and one structure built in their place.

Tompt questioned how much property was owned on the opposite side of the road. Walker stated that there was about 100 feet of property on the other side of the road. Flottemesch questioned the topography on the opposite side of the road. Walker stated that there is a shallow level spot, then a steep hill and behind the hill there is wetlands. Elletson questioned the size of the cabin. Walker stated that the cabin would be 26 ft by 36 ft with a deck and three-season porch totally 14 ft by 36 ft. Elletson questioned how far the structure had to be from the well. Johnson stated that the eave of a structure had to be 3 ft from the well; the Department of Health would have to be contacted to see if the well could be placed under a deck.

Flottemesch questioned the setback from the lake. Elletson stated that the Board’s measurements showed about 20 ft from OHW. Walker stated that the new structure would still be about one foot behind the string line.

Speaking in favor of the application was Jack Dynek. No one spoke in opposition to the application. Written correspondence was received from Ad Dovack, in favor of the application. At this time, testimony was closed.

Further discussion was held. Elletson stated that this did seem like a reasonable solution and the new structure would be behind the established building line. Flottesmesch stated that there were severe limitations on the lot due to the road location and topography.

Motion: Elletson made a motion to approve a variance to allow one new cabin in the footprint of the two existing cabins, which would be one foot behind the established building line and thirty (30) feet from the centerline of the road based on the fact that the number of cabins would be reduced from two to one; the size and shape of the lot; the topography of the lot and the fact that the new cabin would meet the required side yard setback. Oakes second. All in favor. Motion carried.

SECOND ORDER OF BUSINESS: Ray Thorkildson. Request a variance to construct an addition onto the existing garage 42 feet from the centerline of the township road has been filed for the property described as: Lots 4 and 5, Peaceful Bay; Section 3, TWP 142, Range 39; Eagle View Township. PID Number 09.0562.000. The property is located on Tulaby Lake; project location 37539 Tulaby Lake Drive.

Thorkildson explained the application to the Board. He would like to add a 20 ft by 24 ft addition onto the existing garage. The addition would be for storage and a workshop. A new roof would be placed over the entire structure. The roof would consist of attic rafters for additional storage.

Johnston questioned if there would be an overhead door for a vehicle. Thorkildson stated that there would be no overhead garage door for vehicle parking. Tompt questioned if there was enough room between the existing garage and hill for an addition. Thorkildson stated that there would not be enough room. Elletson stated that there was about 14 feet between the existing garage and the hill.

Elletson asked Johnson if there was an existing variance in the file. Johnson stated that there was an existing variance which granted a structure to be 35 feet from the road right of way and that the original request of 15 feet from the right of way had been denied. This variance was approved in 1974.

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. Elletson stated that a previous variance request for 15 feet from the right of way has already been denied and that this request is about 9 feet from the right of way. Elletson stated that he could see wanting to utilize the existing concrete slab, but he could not see a hardship of the property to justify the additional variance. Elletson then read the six criteria under which a variance could be granted.

Oakes agreed that utilizing the existing concrete slab made good sense, but there was no hardship to justify the variance. Flottemesch stated that the intent of the Ordinance is not to increase variances already granted.

Motion: Flottemesch made a motion to deny a variance to construct an addition on to the existing garage forty-two (42) feet from the centerline of the road based on the fact that the property does have reasonable use and that there is no hardship to justify altering an existing variance. Oakes second. All in favor. Motion carried.

THIRD ORDER OF BUSINESS: Paul Anstett. Request a variance to construct a dwelling 36 feet from the rear property line and 30 feet from the ordinary high water mark of the lake and a storage shed 6 feet from the side property line and 15 feet from the ordinary high water mark of the lake for the property described as: Lots 6 & 7, Blom Beach; Section 19, TWP 138, Range 41; Lake View Township. PID Number 19.0833.000. The property is located on Lake Sallie; project address 12867 Lake Sallie Drive.

Anstett explained the application to the Board. This is their 18th summer on the lake. The property is located between Lake Sallie and Mud Lake. They would like to build a three-season home on the property. There would be no garage. The new structure would be located in the same location of the existing mobile home and addition. The only change would be that the house would be a rectangle where the mobile home and addition are “L-shape”. The existing shed would be removed and a new one would be constructed on the opposite of the property, away from the view of the neighbor.

Elletson clarified that a garage is not part of the application. Anstett stated that there is no plan for a garage because they want the open space. Flottemesch questioned the difference in the site plan and the location of the stakes in regards to the storage shed. Anstett stated that the site plan shows the shed closer to the lake, but they decided to move it back in line with the house. Elletson questioned the setback from the side lot line to the storage shed. Anstett stated it would be about 6 feet.

Speaking in favor of the application was Gail Hahn, Lake View Township Supervisor. The Township was in favor of the application as long as the storage shed is not any closer to the lake than the house and stated that the lot to the West probably would not ever be developed. 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. Elletson stated that the Board could not determine where the true ordinary high water mark was; therefore, they measured from the riprap. One corner of the new structure would be 30.5 feet from the toe of the riprap and the other corner would be about 39 feet from the toe. The lot to the west is vacant and the house on the east is about 37 feet from the riprap. Elletson stated that this request is compatible with the neighborhood. Flottemesch questioned if there is an intent for a future deck or screen porch. Anstett stated that those would be included in the size of the proposed structure.

Motion: Elletson made a motion to approve a variance to allow a structure thirty and one-half (30 ½) feet from the toe (bottom) of the riprap and thirty (30) feet from the road right of way; and allow a 9 ft by 10 ft storage shed six (6) feet from the side lot line and no closer to the lake or the road than the new dwelling structure based on the size and shape of the lot of record with the stipulation that the existing storage shed be removed. Flottesmesch second. All in favor. Motion carried.

FOURTH ORDER OF BUSINESS: Jeremy Williams. Request a variance to construct a dwelling and deck 60 feet from the centerline of the township road and 60 feet from the ordinary high water mark of the lake; a water oriented accessory structure 20 feet from the ordinary high water mark of the lake and a holding tank 58 feet from the ordinary high water mark of the lake for the property described as: Pt of Govt Lot 1; Section 5, TWP 138, Range 42; Lake Eunice Township. PID Number 17.0047.000. The property is located on Little Cormorant Lake.

Williams explained that this lot is quite large, but surrounded by water. They are looking at putting up a cabin, boathouse and holding tank.

Johnston questioned if a holding tank was an acceptable septic system. Johnson stated that a holding tank would be allowed if there was no way to put in a drainfield. This would be handled administratively. Tompt questioned if a designer has taken a look at the property. Williams stated that he did not have a designer look at the property. Oakes questioned if the foliage would be cut for a path to the boathouse. Williams stated that the boathouse would not be done immediately; it was more of a future plan. Flottesmesch stated that this lot does not meet the criteria for a water-oriented structure. Johnson read the criteria for a water oriented structure and stated that since the lot did not meet the criteria, a variance would be required for the placement of any water-oriented structure.

No one spoke in favor of the application. No one spoke against the application. Written correspondence in opposition to the application was received from Elaine Burtell and E. John Carlson. At this time, testimony was closed.

Further discussion was held. Elletson suggested that Williams listen to the discussion and suggestions of the Board and consider postponing the application until Williams had a master plan for the lot which would or could include a garage or storage shed, a designed septic system, house and any other possible future plans. Flottesmesch agreed and stated that this is a bare lot and should be handled with a master plan rather than a piece meal plan. Elletson stated that the lot does have limitations and would require a variance, but it would be better to give one master footprint than keep coming back for variance after variance.

At this time, Williams asked the Board to allow him to postpone the application until he had time to come up with a master plan for the lot.

Motion: Flottesmesch made a motion to accept Williams' request for postponement. Tompt second. All in favor. Motion carried.

FIFTH ORDER OF BUSINESS: Michael Astrup. Request a variance to construct a garage 42 feet from the centerline of the county road for the property described as: Beg 272 feet S of NW Sec Cor Th E 225.15 feet to Lk S Al Lk 102.9 ft W to W Ln & N 96 ft to Beg; Section 11, TWP 139, Range 40; Erie Township. PID Number 10.0123.000. The property is located on Cotton Lake; project address 20942 Co Rd 32.

Astrup explained the application to the Board. The lot is 100 feet wide and 250 feet deep. There is a hill lakeside of the cabin. To the rear of the cabin is the well and septic system. The proposed garage would be located behind the existing utilities, which limits the access to the property from the road. The garage access would be parallel to the road.

Flottesch questioned how far the garage would be from the right of way. Elletson stated that from the centerline of the road to the utilities was approximately 33 feet. Tompt questioned if there was an underground sprinkling system. Astrup stated that there was an underground system.

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 road setback, location of septic system, location of well, location of sprinkler system, size of lot and location of the house. Elletson felt that the garage could be moved back 70 feet from the centerline of the road and still not interfere with the septic system. Flottesch stated that the county road may be widened in this location at some future point and that the garage needs to be further from the road.

Motion: Elletson made a motion to approve a variance to allow a garage sixty-two (62) feet from the centerline of the county road due to the size and shape of the lot; location of the well, septic system and cabin; with the stipulation that the garage doors must face either the North or the South, not toward the road. Tompt second. All in favor. Motion carried.

SIXTH ORDER OF BUSINESS: Keith Peterson. Request a variance to construct an addition onto the existing cabin 74 feet from the ordinary high water mark of the lake on the property described as: Lot 4, Fisherman's Wharf; Section 3, TWP 142, Range 39; Eagle View Township. PID Number 09.0502.000. The property is located on Tulaby Lake.

Peterson explained the application to the Board. The addition would be to accommodate indoor bathroom facilities, a mudroom and entryway.

Flottesch questioned what type of septic system is on the property now. Peterson stated that the grey water runs into a conforming septic system, but there is a nonconforming privy. Johnston question how many bedrooms were in the house. Peterson stated that there were three bedrooms, but does not want to give up one of the

bedrooms for a bathroom. Tompt questioned what type of foundation was under the cabin. Peterson stated that the cabin was on pillars and that the addition would also be on pillars.

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.

Johnston stated that not having bathroom facilities in a cabin would be a hardship. Flottesch stated that not having a conforming sanitary system is a hardship. Flottesch suggested that if a variance were to be considered, the variance would have to be tied to the nonconforming cabin and not set a footprint for future construction. This would have to be a temporary solution for a nonconforming structure and all new construction or future structural changes could not be a consideration of this request. Elletson agreed that if a variance were to be granted, that it could not be used for a future footprint.

Motion: Flottesch made a motion to approve a variance as follows:

1. Construct a 10 ft x 20 ft addition onto the westerly side of the existing cabin;
2. The addition would be placed on the same type of pillar foundation as existing cabin;
3. The addition, in no way, can extend the life of the cabin beyond normal maintenance;
4. The addition is for the sole purpose of indoor bathroom facilities and an entryway/mud room;
5. Any structural changes, foundation changes, future additions or changes in spaces will result in the current landowner submitting a new site plan and adhering to current zoning regulations or if a variance is applied for, this variance shall not be part of the future variance consideration relating to setbacks;
6. This variance is not to set a footprint for a future cabin or dwelling;
7. The basis of the variance is due to the hardship of the cabin not large enough to accommodate proper indoor sanitary facilities;
8. The indoor facilities will replace a nonconforming privy; and
9. The indoor facilities will be connected to a conforming septic system.

Tompt second. All in favor. Motion carried.

SEVENTH ORDER OF BUSINESS: Robert Vitt. Request a variance to construct a garage 55 feet from the ordinary high water mark of the lake for the property described as: Pt of Lot 3; Section 18, TWP 140, Range 38; Shell Lake Township. PID Number 28.0102.000. The property is located on Island Lake; property address 25580 East Island Lake Road.

Vitt explained the application to the Board. There is need for additional storage. The original request was for 55 feet from the lake, but he has been able to reconfigure and get

the shed 73 feet to 76 feet from the lake. Due to the shape of the lot and the location of the septic system, the 100 ft setback cannot be met. Elletson questioned how long Vitt had owned the land. Vitt stated that he has owned the land for about 11 years.

Speaking in favor of the application was Al Chirpich. 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. Elletson stated that this is a beautiful lot, which is a peninsula. Elletson felt that any structure would require a variance to be placed on the lot. However, the lot already has two dwellings, one of which has an attached four-stall garage. There are also several smaller sheds. Elletson felt that it would not be reasonable to add another storage structure to a nonconforming property. Elletson felt that more land should be acquired for a storage shed. Johnston felt that the present garage is larger than normal and larger than those on other lots and that there was reasonable use of the property.

Oakes felt that storage on lots has become popular, but could be overcrowding the lots. Elletson restated that the shape of the lot is a hardship, but there is reasonable use. Too much stuff to store is a personal hardship, not a hardship of the land.

Vitt explained that two families share this property, so there is a lot of stuff to be stored. Tompt stated that there may not be reasonable use of the property if two families share the property. Flottesch stated that the lot is two acres in size and it could have easily been two lots prior to the current shoreland regulations. Oakes stated that the location is out of sight. Johnston did agree that this location was the only reasonable location.

Motion: Tompt made a motion to approve a variance to locate a storage shed seventy-six (76) feet from the ordinary high water mark of the lake due to the lay of the land being a peninsula, that there are two dwellings on the property being shared by two families, thus the lack of storage is not giving the landowners reasonable use of the property and the proposed location screens the storage shed from the view of the road and lake. Oakes second. All in favor except Johnston and Elletson. Majority in favor. Motion carried.

EIGHTH ORDER OF BUSINESS: Informational Meeting.

The next informational meeting is tentatively scheduled for Thursday, October 7, 2004 at 8:30 a.m. at the Planning and Zoning Office.

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