

Becker County Board of Adjustments
January 19, 2005

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

Minutes approval. Elletson made a motion to approve the November 2004 Minutes. Oakes second. All in favor. Motion carried. November 2004 Minutes approved. Elletson stated that in the December 2004 Minutes, the second page, third paragraph should be reworded to say "restated" rather than "reinstated". With these corrections, Flottemesch made a motion to approve the December 2004 Minutes. Oakes second. All in favor. Motion carried. December 2004 Minutes approved with corrections.

At this time, Elletson read the criteria for which a variance can be granted and how this criteria helps the Board make their decisions.

FIRST ORDER OF BUSINESS: Leslie Froiland. Lot 34 Floyd Lake Point. PID Number 08.1008.000.

Johnson explained that this application had been postponed from the December meeting to allow applicant to submit a more detailed site plan. The application was to intensify a nonconforming structure by adding a second story to the existing dwelling 39 feet from the ordinary high water mark of the lake and construct an attached garage 77 feet from the centerline of the county road.

Froiland explained the application to the Board. They would like to add a second story to the existing structure, which is 39 feet from lake and construct an attached garage 77 ft from county road. The existing garage would be removed along with other impervious surface to meet the 25% maximum.

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.

Board discussion was held. Johnston asked when the deck was constructed. Froiland stated that the deck was constructed in two stages. The first stage was constructed in the late 70's or early 80's and the second portion was constructed about 5 years ago. Flottemesch questioned if there were any hard surfaces between the deck and lake. Froiland stated that there was one-step then grass. Elletson questioned the impervious coverage. Froiland stated that after the project was complete, there would be approximately 600 sq ft left over for future improvements. Flottemesch questioned if some of the present impervious material would be removed. Froiland stated that existing impervious material would be removed if needed. Elletson questioned how this structure

lined up with the string line and if there was any other location on the lot for a house. Flottemesch stated that the string line would cut across the present deck at an angle. Flottemesch felt that, if a variance were to be granted, the impervious would be reduced, but needed to be a storm water plan of some type, and the variance should be worded not to grand-father in the deck. Flottemesch felt that removal of the deck might cause more damage to the environment than leaving it intact. Johnston stated that the drainage currently is from the house toward the road, not toward the lake. Elletson felt that all the Board would need is to specify 25% impervious. Flottemesch did not want the run off from the addition to drain toward the lake. Elletson questioned if a two-story structure was out of character for the neighborhood. Flottemesch stated that this structure would fit into the neighborhood; this structure is approximately 4 -5 feet back further from the lake than the neighboring houses.

Motion: Flottemesch made a motion to approve a second story addition to the existing dwelling thirty-nine (39) feet from the ordinary high water mark of the lake and an attached garage 77 feet from the centerline of the county road due to the size of the lot and location of existing structure and the fact that the nonconforming garage, which is too close to the road will be removed and impervious lot coverage will be reduced, with the stipulation that impervious surface must remain under 25%; that the storm water run off from the roof must be diverted away from the lake, not toward the lake; and that this variance does not address the nonconforming deck or include the nonconforming deck. Any issues with the deck will have to adhere to the current zoning regulations in affect at the time of the issue. Oakes second. All in favor. Motion carried. Variance approved.

SECOND ORDER OF BUSINESS: Mark Lindquist. Request a variance to construct a garage 104 feet from the centerline of US Hwy 59 and 64 feet from the centerline of County Road 17 on the property described as: Pt of Lot 1, Section 28, TWP 138, Range 41; Lake View Township. PID Number 19.0507.000.

Lindquist explained the application to the Board. The carport would be used for storage for the lawnmower, tractor, etc. Johnston questioned if the structure was already constructed. Lindquist stated that the structure was already constructed. Flottemesch questioned where the access to the structure was. Lindquist stated that there were doors on both ends of the structure and that this was not a garage but a carport. Johnston stated that the structure was a completely enclosed steel structure with doors on both ends, enabling them to drive directly through the structure.

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

The Board held discussion. Elletson stated that the structure did not meet the required setbacks either from the US Hwy or the county road. Elletson questioned if there had been a structure in that location before. Lindquist stated that there had been a structure there some years ago. Flottemesch questioned how this building lined up with other structures in the neighborhood. Lindquist stated that it was in line with the other

structures. Elletson stated that MN DOT doesn't really care about the setback from the road as long as the structure is off the right of way. Flottemesch stated that there is a problem with the lot caused by the relocation of the US Hwy some years ago, which pinched these lots between two roads. Flottemesch stated that if a variance were to be granted, a stipulation should be placed on the variance that would limit the doors to the ends and not the sides.

Motion: Oakes made a motion to allow a garage to be located 104 feet from the centerline of the US Hwy and 64 feet from the centerline of the county road due to the size and topography of the lot with the stipulation that the garage doors must be on the North and/or South side of the structure and cannot be on the East or West side of the structure. Flottemesch second. All in favor. Motion carried. Variance approved.

THIRD ORDER OF BUSINESS: Bonnie Price. Request a variance to construct a garage 41 feet from the centerline of the township road for the property described as: Lot 1, Block 2 and 1/31 interest in Outlots A & B, Brandy Lake Estates. PID Number 08.0694.000.

Price and Orrin Vandenplas explained the application to the Board. They had measured, obtained the site permit and began construction. During construction it was found that the garage was too close to the road. This would be the only place to locate the garage due to the location of the septic system and the topography of the lot.

No one spoke in favor of the application. Speaking in opposition to the application was Curtis Sittko, neighbor. Sittko was concerned that there is not enough room to turn around on the cul-de-sac for road equipment and there would be parking on the roadway. No written correspondence was received either for or against the application. At this time, testimony was closed.

The Board held discussion. Elletson questioned if the doors face the cul-de-sac. Price stated that they did. Elletson questioned the distance the doors would be from the right of way. Vandenplas stated that they would be about 10 feet off the property line. Johnston stated that if they parked in front of the garage, they would be parking on the road right of way. Flottemesch stated that the structure is slightly angled, but not by much. Flottemesch stated that the Board has held very tight to the 20 ft from the road right of way when the doors face the road. There needs to be room for road maintenance. Price stated that the plow has not had a problem with plowing so far this winter. Flottemesch stated that a 50 ft cul-de-sac is not much room to turn around. Elletson stated that there should be a minimum of 20 ft for parking in front of the garage. Flottemesch stated that the distance could be reduced if the doors were on a different side of the building. Elletson stated that there are two options: move the garage to 20 ft from the road right of way or change the entrance to the garage.

Johnston allowed Sittko to make a suggestion. Sittko suggested leaving the garage as is if there would be a commitment of no parking on the right of way and enter the garage from the north rather than the south.

Elletson suggested that Price postpone the application to allow them time to think the suggestions over. Flottemesch stated that a motion could be made with two options and then let the applicant make the decision as what they want to do.

Motion: Elletson made a motion to allow a garage in one of two locations: 1) a garage at a distance a minimum of twenty (20) feet from the road right of way; or 2) leave the garage in the present location and place the doors on either the easterly end or the north side of the structure based on the size and topography of the lot and either of these locations would promote safety by not allowing vehicles to be parked on the road right of way. Flottemesch second. All in favor. Motion carried. Variance approved.

FOURTH ORDER OF BUSINESS: Francis Schmidt. No one present to explain the application. Chairman Johnston suggested moving the application to the end of the agenda to allow the applicant time to arrive.

FIFTH ORDER OF BUSINESS: James Nordhogen. Request a variance to construct an attached garage 60 feet from the ordinary high water mark of the lake on the property described as: Lots 3 & 4 Deerpoint Beach; Section 18, TWP 138, Range 42; Lake Eunice Township. PID Number 17.0641.000.

Mike Eisert explained the application to the Board. The request is to construct an attached garage onto a guesthouse. The property is located at the end of a dead-end road. The structure will only be seen by two people and will be 60 feet from the lake.

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.

Flottemesch stated that when the Board viewed, the property, the Board came up with different measurements than the applicant. Flottemesch stated that there is a real concern about the attached garage being so close to the lake and the fact that the garage is being attached to a nonconforming guesthouse; the guesthouse could become another permanent dwelling. Johnston stated that the Board measured the guesthouse as being 24 feet from the lake. Elletson questioned how big the guesthouse was. Eisert stated that the guesthouse was approximately 18 ft by 22 ft in size. Johnson stated that the guesthouse was never permitted and the lot is not large enough to accommodate a guesthouse.

Discussion was held on the size of the lot, topography of the lot, whether or not an addition should be permitted on a nonconforming structure, if a new structure should be permitted closer to the road, the shore impact zone in reference to the structure. The suggestion was made to postpone the application to allow the applicant to come up with an alternate plan for a garage.

Motion: At this time Eisert requested a postponement of the application. Flottemesch made a motion to accept the request for a postponement. Elletson second. All in favor. Motion carried.

SIXTH ORDER OF BUSINESS: Charlotte Honrud. Request a variance to allow three substandard size lots in contiguous ownership to be three separate buildable lots for the property described as: Lots 37, 38 & 39, Abbey Lake Estates; Section 23, TWP 138, Range 41; Lake View Township.

Charlotte Honrud and Brant Beeson, Attorney explained the application. Beeson stated that a long story short: the Honrud's were given poor advice. Honrud bought one lot and the boys were buying the other two lots. Mom financed the purchase of the boy's lots and put the lots in her name until the contracts between her and the boys were paid off, the intent was to have three separate owners from the beginning. But since mom financed two of the lots, the lots were put into her name until the boys paid her off. The realtor and title company created the hardship when both told the Honrud's that these were lots of record and buildable lots. The lots were purchased from three separate people, not one person. Within the Abbey Lake Plat, there are smaller lots than these lots. Honrud did not realize there was a problem until taxes came and found out there was a problem with Zoning. Honrud acted as the mortgagee. If a bank would have been the mortgagee, there would not have been a problem,

No one spoke in favor of the application. Lake View TWP was in opposition to the application because there was not enough room on these lots for three houses. One letter was received from Lloyd & Judy Pawlak, in opposition to the application. At this time, testimony was closed.

The Board held discussion. Flottemesch questioned the lot sizes in the neighborhood. Johnston stated that he pulled the plat from the Courthouse. This showed that one owner owned the four lots to the south; then there was 353 feet owned by one owners; then three lots owned by one owner; then one lot owned by one person. Johnston stated that these lots were purchased recently, not 20 years ago. Flottemesch stated that the owner, which is an economic hardship, for which a variance cannot be granted, created the hardship. Elletson stated that he is persuaded that the intent was to have the three lots in separate ownership from the beginning. Elletson stated that the lots were put into mom's name short term to arrange financing and that is what fouled everything up. Elletson also stated that these lots are not unusually small according to the plat and felt that this was a technical error. Elletson said that if the Board required the Honrud's to leave the lots as one, it would be a very expensive mistake and could be looked at as a punishment. Flottemesch stated that the Ordinance is very specific about contiguous lots. But on the other hand, there is evidence of bad advice, which was followed. Flottemesch stated that the three lots were bought from three individual owners, not one owner, so if proper procedures would have been followed, this problem would not exist. Flottemesch stated it appears that there was no intent to violate the Ordinance and that they were lead down the wrong path; but this regulation has been in the ordinance long enough. Elletson stated that it is good to be consistent, but no two cases are alike. Oakes

stated that is application does not really go with the criteria for a hardship and even the Township is against the application. Honrud stated that she has proof that the boys have paid here for the property and that there are contracts showing this was the intent. If the boys had gone through the bank, the lots would have been separate. Flottemesch explained the contiguous substandard lots. Further discussion was held.

Motion: Flottemesch made a motion to approve a variance to allow three substandard size contiguous lots in the same ownership (Lots 37, 38, & 39, Abbey Lake Estates) to be divided into individual ownership and allow them to be buildable lots based on the evidence provided by loan re-payment agreements for the purchases of Lots 37 & 39, which shows that the lots were intended to be in separate ownership from the beginning; the three lots in question were purchased from three individual owners, not one owner; and the applicant did not intentionally violate Section 17, Subdivision 9 of the Becker County Zoning Ordinance. Elletson second. All in favor. Motion carried.

SEVENTH ORDER OF BUSINESS: Forest Hills. Request a variance to allow a structure 35 feet from the right of way of a township road for the property described as: Outlots D, E & F Oakridge RV Club; Section 25, TWP 139, Range 42; Audubon Township. PID Number 02.0307.338.

Dave Werth explained the application. Werth explained that the house presently located within the miniature golf area would be relocated to the entrance of the campground. The hardship includes the topography and size of the outlots and safety for the campground and security to deter problems away from the campground. State law requires their campers to check in at a reservation check in point. This would suffice that state requirement and provide added safety and security for this area. The current check in point is at the main office at Highway 10.

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.

Elletson questioned the right of way of the township road. Johnson stated that the right of way was 66 ft. Flottemesch questioned where the septic system would be placed. Werth stated that the house would be connected to the community system for the resort. Johnston questioned where Werth took his measurements, because the Board had a measurement of 48 ft from the centerline of the road. Werth stated that he measured from the edge of the driving surface. Flottemesch questioned if the structure could be moved 20 feet from the right of way, it appears that the proposed location is 15 ft from the right of way. Werth stated that the lot behind this location is a platted rental lot for the RV Park and state law required a minimum of 10 feet between structures. Further discussion was held. Johnson stated that this is an unique situation. All the property is owned by Forest Hills, but it is a platted RV park; even though the lots are one they are separate. Elletson stated that there is no garage to deal with. Flottemesch stated that this would be for resident management for the safety and security of the resort.

Motion: Flottemesch made a motion to approve a variance to allow the relocation of a structure from the miniature golf site to the site on 185th Street at a distance of 48 feet from the centerline of the township road based on the fact that this would be additional safety and security for the resort and the uniqueness of the property layout with the stipulation that the rear deck cannot extend past the entry way. Elletson second. All in favor. Motion carried. Variance approved.

EIGHTH ORDER OF BUSINESS: First Baptist Church of Osage. Request a variance to construct a church 40 feet from the centerline of Main Street and 40 feet from the centerline of Washington Avenue for the property described as: Lots 5 – 8, Block 1, Townsite of Osage; Section 20, TWP 140, Range 36; Osage Township. PID Number E 21.0036.000 and E 21.0037.000.

Jeff Christlieb explained the application. The intent is to construct a new church and remove the existing church upon completion. The new structure would be located 40 feet from the centerline of both roads. This would allow for ample parking and proper placement of a septic system. The new structure would line up with the Community Center and the old church. Other locations have been looked at and thoughts have gone into relocating the structure, but since the congregation owns this lot, they want the new church on this lot.

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.

Flottemesch stated that this area is an unincorporated townsite and platted as such; it was platted for a city but never incorporated into a city; and the County regulations must apply even though this is an urban setting. The roads are platted 66 ft streets. Elletson stated that he talked to Kalil by phone and discussed the situation with Kalil since she had viewed the property. Elletson felt that the Board should not permit the parking between the church building and Main Street. Elletson stated that if the Township wanted to give permission to park on the right of way, they could, but this Board could not give them permission to park on or in the right of way. Elletson also stated that there would be more parking available once the old church was removed. Elletson questioned if there was a stop sign at the intersection. Christlieb stated that there was a stop sign at the intersection.

Motion: Elletson made a motion to approve a variance to allow a new church structure forty (40) feet from the centerline of Main Street and forty (40) feet from the centerline of Washington Avenue based on the size and shape of the lot and the fact that this lot is located within an urban setting of an unincorporated townsite with the stipulations that there cannot be designated parking between the church structure and Main Street and that the existing church must be removed from the property within a reasonable time after the new church is completed and this time limit is to be worked out between the Church and the Zoning Office. Oakes second. All in favor. Motion carried. Variance approved.

NINTH ORDER OF BUSINESS: Michael Watson. Request a variance to construct a garage on the back portion of the property that will be located 19 feet from the rear property line and to relocate a dwelling onto the lakeside of the property that is 43 feet from the right of way of the township road and 86 feet from the ordinary high water mark of the lake for the property described as: Lot 13, Block 2 South Dakota Beach Revised and Tract A parts of Lots 8 & 9, Block 1, South Dakota Beach Revised; Section 5, TWP 142, Range 40; Maple Grove Township. PID Numbers 20.0598.000 & 20.0584.001.

Watson explained the application to the Board. The current garage on the back portion of the lot would be relocated on the lakeside portion of the lot. The current cabin would be removed. Then a new garage would be constructed on the back portion of the lot. The new garage would be 19 feet from the rear property line. The new cabin would be 86 feet from the lake and 43 feet from the right of way of the road.

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.

Flottesch questioned if there has been consideration for a deck or porch. Watson stated that either a deck or a porch has been included in the size and the measurements. Flottesch questioned how the cabin lined up with the neighbors. Watson stated that it was further back from the lake than the neighbors. Flottesch stated that he would like to see the garage a minimum of 20 feet from the road right of way, which would place it closer to the rear property line so no cars would park on the road right of way and would prefer to see the garage closer to one lot line to give a little more room for an alternate septic system site.

Motion: Flottesch made a motion to approve a variance to locate a 28 ft wide (width being east to west) by 26 ft deep (depth being north to south) garage on the portion of the lot north of the road a minimum of twenty (20) feet from the road right of way and ten (10) feet from the west side lot line based on the size and shape of the lot and the need for an alternate septic system location and approve a variance to locate a dwelling on the lakeside portion of the lot eighty-six (86) feet from the lake allowing for a thirty-six (36) ft deep structure with the measurements to start at the ordinary high water mark of the lake based on the size and shape of the lot with the stipulation that the structures must be moved and relocated by September 1, 2005. This deadline would nullify the deadline for removal of the two-story garage as specified in Documents 510599 & 518875. Oakes second. All in favor. Motion carried. Variance approved.

Elletson stated that this was a major step in the right direction to correct the problems on this lot.

TENTH ORDER OF BUSINESS: Bruce Paakh. Request a variance to raise both size of the house 3.95 feet (on the north end) 95 feet from the ordinary high water mark of the lake for the property described as: Lot 4 S of a line Beg 506.69 feet S of NE Cor 85 degrees 24 minutes 25 sec W 372.79 feet to the lake and there terminating NE ¼ of SW

¼ of Section 17 & Lots 5 & 6; Section 17, TWP 139, Range 43; Lake Park Township. PID Number 18.0103.000.

Paakh explained the application to the Board. 4 feet on one end of the structure would raise the house. This would change the pitch of the roof to have more usable space. This would allow for two bedrooms and a hallway on the upper floor, instead of old configuration of entering one bedroom through the other bedroom. Paakh explained the sequence of events: October 20th inquire about what permits would be needed for his project. Paakh found out that he needed a permit to replace the roof but did not need a permit for a walkway or patio and did not need a permit for siding. His land alteration permit had expired. Paakh filled out a permit and was granted the permit. After the work began, he received a letter from Johnson, the Zoning Administrator. IN this letter, three issues were addressed. These issues were the second story addition, which there always was a loft; 2) garage under the house, which was really an access to haul in wood; 3) pillars for a deck, which the pillars were for a walkway. The walkway would be fine, but any supports for the walkway would be considered part of the structure. Johnson told Paakh that he would need to file for a variance to the addition of height to the structure. Paakh wanted this letter rewritten for clarity, but Johnson voided the letter and never rewrote it.

Johnston questioned if the Board was only dealing with the height request. Johnson stated that the only thing before the Board was adding height to the second story.

Paakh stated that the hardship was that there is no room to add onto the structure, the only way to gain more space is up. Paakh stated that they only want to utilize the space of the building. Paakh then stated that he wanted to up be front with the Board that his original variance did not include a basement and he put a basement under the structure when it was relocated. Johnson read the variance that was granted in 2002, which was to relocate the existing structure. Johnson suggested that the Board table the application because there were too many issues with the file and a legal opinion should be obtained from the County Attorney before any action can be taken.

Johnston questioned the 60-day rule. Johnson stated that they would be ok for the February meeting. Paakh asked if the Board could rule on the roof and deal with the basement issue later. Johnson stated that it would be in the best interest of the Board to get a legal opinion first. Johnson stated that in actuality, Paakh was creating a new structure.

Motion: Flottesch made a motion to postpone the application until the February 2005 meeting to allow the Zoning Office to seek a legal opinion from the County Attorney's Office in reference to the request from the applicant and the basement that was constructed without a permit. Oakes second. All in favor. Motion carried. Application postponed until the February 2005 meeting.

ELEVENTH ORDER OF BUSINESS: Francis Schmidt. Request a variance to construct a deck 5 feet from the side lot line and 58 feet from the ordinary high water

mark of the lake for the property described as: Lot 7 and the NWLY 25 ft of Lot 8, Block 5, Summer Island; Section 6, TWP 138, Range 42; Lake Eunice Township. PID Number 17.1221.000.

Since no one was present to explain the application to the Board, Johnson explained the application. The current lakeside deck would be removed and replaced with a new deck. Due to the topography of the lot, a deck/walkway would be constructed on the sides of the 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.

Flottemesch stated that the topography of the lot is very steep. Currently, there are railroad ties on one side of the house, creating steps to walk down and there is a very steep slope on the other side of the house. The current deck is deteriorating. Johnston stated that if the walkway was 2.5 to 3 ft wide it would be about 6 feet from the side lot line. Elletson questioned how the deck lined up with the string line. Flottemesch stated that the deck was behind the string line; the only difference with the new proposal would be the distance from the side lot line with the new deck/walkway. Flottemesch stated that with the topography of the lot, some type of walkway is needed for a safety factor.

Motion: Oakes made a motion to approve a variance to allow a deck fifty-eight (58) feet from the ordinary high water mark of the lake and allow a three ft wide deck/walkway structure on the east side of the property (with this structure being no more than three feet from the wall of the existing structure) based on the topography of the lot. Flottemesch second. All in favor. Motion carried. Variance approved.

TWELVTH ORDER OF BUSINESS: Informational Meeting.

The next informational meeting is scheduled for Thursday, February 3, 2005. Johnston suggested moving the next Board of Adjustment Meeting to Thursday, February 10, 2005 instead of Wednesday, February 9, 2005 since Wednesday is Ash Wednesday.

Flottemesch made a motion to move the date of the next Board of Adjustment Meeting to Thursday, February 10, 2005. Oakes second. All in favor. Motion carried.

Since there was no further business to come before the Board, Chairman Johnston adjourned the meeting.

Harry Johnston, Chairman

ATTEST

Patricia Johnson, Administrator