

Becker County Board of Adjustment
April 13, 2005

Present: Steve Spaeth, Harry Johnston, Jim Bruflo, Al Chirpich, Liz Huesman, Zoning Administrator Patricia Johnson, and Zoning Staff Debi Moltzan.

Minute Approval: Bruflo made a motion to approve the minutes from the March 2005 meeting. Spaeth second. All in favor. Motion carried.

Johnston explained the protocol for the meeting and read the criteria for granting a variance.

First Order of Business: Jerome Lima. Request a variance to construct a storage shed and deck 30.5 feet from the road, five feet from the side lot line, and five feet from the ordinary high water mark of the lake on the property described as: That Part of Lot 2 Lying N of Lot 30 Woodland Beach; Section 8 TWP 138, Range 41; Lake View Township. PID Number 19.0119.000.

Johnson explained that this application was tabled at the applicant's request in order to have a property line dispute settled. The request was to allow a storage shed and deck 30.5 feet from the road, five feet from the side property line and five feet from the ordinary high water mark of Munson Lake. The application was tabled in 2003.

Brant Beeson further explained the application to the Board. At the time of the tabling, there was a dispute about the property line. This dispute was settled in February 2005. The shed is now a little over 5 feet from the property line and is located further from the lake than the neighboring house. This request fits all criteria for granting of the variance. The applicant owns property on both sides of the road, and for safety reasons, wants the storage shed for water toys on the Munson Lake side. The shed was placed in this location to provide shade for the deck, which was built for a handicapped family member. The shed has no utilities hooked up to it, nor are there any plans to do so.

Chirpich questioned why the shed was constructed without a permit. Lima stated he did not realize he needed a permit for such a small shed. Chirpich questioned if Lima had a dock on Lake Sallie. Lima stated that they did, but that dock was rarely used due to the wind and that the Munson Lake side had a nicer beach.

Discussion was held on the height of the structure, when a permit is needed and when it is not needed, and the use of pavers or concrete versus a deck. Lima stated the deck was constructed for elderly parents, handicapped family members and children.

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. Bruflo questioned when the property was bought and when the storage shed was constructed. Lima stated he has owned the property for some time and

that construction was done in approximately 2000. Discussion was held about the type of road accesses the property. Johnson stated that the township road was an easement road which means that the two lots are adjoining.

Brufloft stated that the lot is narrow and what has been constructed would not be permitted. Johnston stated that a patio would not require a permit and that the storage shed on the Sallie side could be enlarged to accomplish the same amount of storage as what there is now. Huesman agreed.

Lima stated that the storage shed was constructed on the Munson side for safety from crossing the road because of speeding traffic. Lima stated that they have not gotten any help from agencies to slow down the traffic in this area. Mrs. Lima stated they have tried several things to get the traffic slowed down. Mrs. Lima stated that the shed is for storing water toys for the safety for the small children, so the children do not cross the road.

Further discussion was held on the size of the lot, location, use of the structure. Chirpich questioned if there were other storage sheds in that vicinity that were as close to the lake. Brufloft stated that the application before them has to be considered and compared to the surrounding area, but only those structures that were legally placed there. Brufloft stated that the Lima's should re-contact the Township to get the Township to help with signage for traffic control. Spaeth felt that there is no reason to have the structure on the Munson side of the road.

Motion: Spaeth made a motion to deny the variance to allow a storage shed and deck 30.5 feet from the road, five feet from the side lot line and five feet from the ordinary high water mark of the lake based on the fact that the structures were constructed without permits, there is room on the Lake Sallie side for a storage shed and the deck could be replaced with a patio. Brufloft second. All in favor. Motion carried.

Lima stated that there is negligence on the County's part that a shed cannot be placed on the property with the tax base being accessed to the property.

Second Order of Business: David Carlson. Request a variance to construct an addition 50 feet from the ordinary high water mark of the lake for the property described as: Lot 8 First Addition to Calico Beach; Section 35, TWP 140, Range 40; Holmesville Township. PID Number 16.0313.000.

David Carlson explained the application to the Board. This application was tabled at the February 2005 meeting to allow the applicant to come up with an alternative plan. The new plan has been submitted. The addition would be placed where the carport is located. The original plan was to place the addition in that place, but the septic tank would have been too close. There is room to relocate the septic tank and place the addition onto the back. Topography does limit the location of any structure. Johnston stated that it was the Board's suggestion to place the addition onto the backside of the current structure.

Chirpich questioned what the second level deck would be. Carlson stated that deck is not necessary, but a suggestion is to have a deck come off the addition and over the top of the existing roofline. Chirpich questioned if the entire roofline were changed to accommodate the new addition. Carlson stated no. Spaeth questioned if the new addition would be a two-story addition. Carlson stated that the addition would be two-story. Johnston stated that the string line is about 4 – 5 feet behind the existing cabin. Johnston questioned the second story deck request, because it was not part of the original request in February. Carlson stated it was an after thought and was not necessary.

Chirpich questioned if the variance could be worded so that no extensive work can be done on the present structure and that no deck could be added. Johnston stated that the variance could be worded that way. Discussion was held on the relocation of the septic 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.

Johnston explained what was discussed at the February meeting and what the Board felt at that time and that Carlson has met the suggestions of the Board.

Motion: Spaeth made a motion to approve a 16 ft by 26 ft addition to the rear of the existing cabin; the variance is only for the addition; and would not allow the replacement of the current structure or major structural changes to the existing cabin; and would not allow the second story deck; based on the topography of the lot. Chirpich second. All in favor. Motion carried.

Third Order of Business: James Nordhaugen. Requests a variance to construct a garage 60 feet from the ordinary high water mark of the lake for the property described as: Lots 3 & 4 Deerpoint Beach; Section 18, TWP 138, Range 42; Lake Eunice Township. PID Number 17.0641.000.

Mike Elsert explained the application to the Board. The application was tabled at the January 2005 meeting to come up with an alternative location for the garage. The proposed structure will be located 10 feet from the side and rear property lines. Most of the garage would be replacing existing asphalt.

Johnston stated that there were discrepancies in the measurements. Spaeth stated that the side lot line distance was 5 feet from the side lot line and 7 feet from the rear lot line and where the entrance would be located. Elsert stated that access would be from the side and they would make sure the structure is located 10 feet from each lot line.

Discussion was held on the location of the structure and blocking of the garage door on the existing structure, and if the door on the existing structure is blocked, what good would that structure be. Discussion was also held regarding the amount of impervious material and lot coverage.

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 questioned what the existing garage type structure was used for. Elsert stated that the structure was used as a guesthouse, not a garage.

Huesman stated that the existing garage is not being utilized as a garage and adding another building is not a hardship. Spaeth agreed. Chirpich stated that there are criteria that must be met to allow a variance. Johnston stated that there is reasonable use of the property and there are other locations for boat storage. Brufloft stated that that the existing house is too close to the lake and adding another structure would constrain the property even further.

Elsert stated that Nordhaugen brought the property, in its current condition, last year. Nordhaugen has not made any changes to the structures.

Motion: Huesman made a motion to deny the variance to allow a garage 60 feet from the ordinary high water mark of the lake based on the fact that there is reasonable use of the property. Spaeth second. All in favor. Motion carried.

Fourth Order of Business: James Zick. Request a variance to construct a garage 60 feet from the centerline of the road and 25 feet from the ordinary high water mark of the river for the property described as: Beg 34.6 Ft W & 1275 Ft S of NE Cor SW1/4 NE ¼ Th W 183 Ft N 464 Ft Al Ditch E 147 Ft & S; Section 26, TWP 139, Range 41; Detroit Township. PID Number 08.0464.000.

Zick explained the application to the Board. This garage would be used for vehicles; the current garage is for storage. Zick stated he has an alternate plan, which would move the garage further from the river and closer to the road. If this location were to be used, the access to the garage would be changed from the east (directly off the road) to the south (parallel to the road).

Johnston questioned the right of way of the road. Moltzan stated that, according to the Highway Department, the road right of way was 66 ft, 33 ft each way from the present centerline. Johnston questioned if the alternative location was the second set of stakes on the property. Zick stated that was correct.

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. Brufloft stated that due to the shape of the lot, there would need to be a variance both from the river and road. Spaeth questioned past practice has been for granting garages. Johnson explained that if the entrance to the garage was parallel to the road, 5 ft from the road right of way has been granted and if the entrance was directly off

the road, 20 ft from the right of way has been granted. Johnston stated that the new location that was staked was approximately 48 ft from river and 40 ft from centerline of the road. There is also a steep bank between the proposed garage and the road. Spaeth stated that the longer side of the garage would have to be north and south and make the garage as narrow east to west as possible. Further discussion was held. Chirpich stated that a variance is needed no matter what. Brufloft questioned the size of the current garage. Zick stated that the existing garage is 12 ft by 24 ft. Spaeth questioned what was the smallest size garage that would work for Zick. Zick stated that a 26 ft wide structure could be better to allow the opening of doors. Further discussion was held.

Motion: Spaeth made a motion to approve a variance to allow a garage, 24 ft in size running east and west, by 32 ft in size, north and south, no closer than 38 feet from the centerline of the road, which would place the garage approximately 50 feet from the river, with the stipulation that the garage doors face south, based on the size, shape and topography of the lot. Brufloft second. All in favor. Motion carried.

Fifth Order of Business: David Heggenstuen. Request a variance to allow two substandard contiguous lots in the same ownership to stand as two individual buildable lots of record has been filed for the property described as: Lots 16 and 17, Block 1 Blue Water Bay; Section 19, TWP 138, Range 42; Lake Eunice Township. PID Numbers 17.0589.000 & 17.0590.000.

Heggenstuen explained the application to the Board and gave the Board members a letter outlining what he was looking to do. Heggenstuen stated that he would have liked to have met the Board at the property to discuss what his intentions were; but his notice had the wrong date for the tour; his wife waited all day to find out the tour was the day before. Heggenstuen stated that he bought the second lot in 2000 and stated that the Board should go back to that date to make their decision. Heggenstuen now owns two substandard lots side by side, in the same ownership. He would like to have both lots deemed as buildable lots. Heggenstuen stated that he has done research on this issue and has found that other cases have been granted and that there was a case that "slipped through the cracks". This makes it hard to the common person to understand.

Johnston stated that each case must be looked at individually. Johnston questioned about going back to the laws of 2000, but this law was in effect long before that. Johnson stated that the original ordinance in 1971 and shoreland standards adopted in 1992. Heggstuen stated that letters should have been sent out to people when laws change. The assessor's office informed him of this last fall. Heggstuen stated that his wife was not involved with the purchase of the first lot. Heggstuen stated he found an example that the Board was sympathetic to another landowner and granted the variance.

Spaeth questioned what the lot size should be. Johnson stated that each lot should be 150 ft in width and 40,000 sq ft in size. Heggstuen stated that each lot is about 30,000. Johnston referred to another case where there was the required lake frontage, but not the square footage, which the variance was denied.

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 lot sizes, location, intent of the regulations.

Motion: Spaeth made a motion to deny the variance to allow Lots 16 & 17, Block 1, Blue Water Bay to stand as individual buildable lots based on the fact that the lots do not meet the size requirements and that there is no hardship to justify the variance when the regulations are clear that substandard contiguous lots are to remain the same ownership. Chirpich second. All in favor. Motion carried.

Sixth Order of Business: Gary Austad. Request a variance to construct an addition onto an existing structure 90 feet from the centerline of the county road for the property described as: Pt NW ¼ NW ¼ Beg 172.46 ft E & 951.65 Ft S of NW Cor Sec Th W; Section 21, TWP 138, Range 41; Lake View Township. PID Number 19.0424.000.

Austad explained the application to the Board. Austad would like to add onto the existing structure, which is too close to the road. The location of the proposed addition would tie into the existing structure better. The proposed addition has been downsized to a 20 ft by 30 ft addition. The current house is 22 ft by 24 ft, which is too small. There is no room to the south for an addition, to the north is the well and it would be more difficult to tie into the roofline.

Discussion was held on the right of way width and setback from the right of way. If the right of way is 33 ft, no variance is needed; if right of way is 50 ft, a variance is needed. Johnston stated that their measurements were approximately 32 feet from the property line, if that was the correct property line location. Spaeth stated that there is adequate room on the property to place an addition without a variance. Austad stated that the floor plan does not make sense to add on in any other direction and that the proposed addition would allow a nice view of the golf course. The addition would be too expensive to completely redesign the house.

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

Further discussion was held. Spaeth stated that there is adequate land on the property to construct an addition, which would not need a variance, and that maybe the floor plan, would have to be redesigned, but that is not a hardship. Huesman stated that rearranging the floor plan is a personal hardship, not a hardship of the property. Brufloft felt that there was adequate land without requiring a variance. Chirpich stated that he understood that it may be easier to add on the way the addition is proposed, but there are alternatives. Brufloft explained stated that a hardship means you can't place the addition anywhere meeting the setbacks.

Motion: Chirpich made a motion to deny a variance to allow an addition 90 feet from the centerline of the county road based on the fact that there is adequate room to construct an addition that would meet the required setbacks and that would not require a variance, a hardship was not proved. Spaeth second. All in favor. Motion carried.

Seventh Order of Business: Chad & Julie Pazdernik. Request a variance to amend Document #518878 and construct a dwelling 50 feet from the ordinary high water mark of the lake for the property described as Lot 11, Brolin Beach; Section 16, TWP 139, Range 41; Detroit Township. PID Number 08.0771.000.

Pazdernik, along with his contractor Allen Hanson, explained the application to the Board. The house was removed due to previous poor construction, which would not support the second story as proposed. The plywood was running in the wrong direction. The new proposal is to construct a new dwelling on the existing foundation.

Chirpich questioned if there was access to crawl space. Pazdernik stated that there was access to the crawl space, but there was not much room. Chirpich questioned why they did not stop demolition as soon as found problem and while the walls were still standing. Hanson stated that he did not realize that a percentage of the house had to remain in tact, he thought only one wall needed to remain.

No one spoke in favor of the application. Speaking in opposition to the application was Mary Jo Brunner, co owner of the vacant lot. Brunner was concerned about the closeness to the property line and to the lake. There was no written correspondence either for or against the application. At this time, testimony was closed.

Further discussion was held. Pazdernik stated that there are areas of concrete pads are to be removed. Pazdernik stated that, from his measurements, the house should be 9 ft from the side lot line. Chirpich questioned what the first variance was granted for. Johnson read the previous variance, which stated, "add a second story addition onto the existing nonconforming house due to the size and shape of the lot and allow 28% impervious lot coverage". Johnston questioned what the reason was that it was not reducing the lot coverage to 25% at the first request. Johnson stated that she did not have the minutes to answer that question.

Johnston questioned the required setback. Johnson stated that the required setback is 75 feet on a general development lake. The string line would be between the existing house on one side and the required setback on the vacant lot, which would be about 62.5 feet. This setback would be permitted without a variance. If a vacant lot, 25% would be maximum lot coverage. Johnson stated that once the house was removed, this would be treated as a vacant lot.

Spaeth felt that this should be treated as a vacant lot and that the required setbacks should be met, including impervious lot coverage. Spaeth further stated that it is unfortunate that the existing house did not hold up to their plans. Brufloedt stated that they are now working with foundation and floor joists, not an existing house. Brufloedt questioned if 12.5 feet of the lakeside foundation could be removed and add onto the roadside of the

foundation. Hanson stated that it could be possible. Chirpich stated that there is room to move the structure toward the road. Chirpich felt that once the problem was discovered, the work should have stopped while the walls were still intact, asked for a new variance, and maybe the Board would have looked at the situation differently. Huesman stated that it is too bad that they received poor advice, but with no house there now, the Board has to look at this situation as a vacant lot.

Motion: Brufloft made a motion to deny a variance to amend Document #518878 and construct a dwelling 50 feet from the ordinary high water mark of the lake based on the fact that the existing structure has been removed and there is no hardship to prevent the new structure meeting the established string line and as a vacant lot, lot coverage must meet the 25% impervious coverage; and with the removal of the existing house, Document #518879 is null and void. Huesman second. All in favor. Motion carried.

Eighth Order of Business: Election of Officers and Informational Meeting.

Johnston stated that he talked to Elletson about being the chairman and Elletson would be interested in the chairmanship. Johnston made a motion to nominate Elletson as Chairman. Chirpich second. All in favor except Spaeth. Majority in favor. Motion carried. Elletson will be the 2005 Chairman.

Huesman made a motion to nominate Johnston as Vice-Chair. Chirpich second. All in favor. Motion carried. Johnston will be the 2005 Vice-Chairman.

The tentative date for the next informational meeting is scheduled for Thursday, May 5, 2005 at 8:30 am. at the Planning & Zoning Office.

Spaeth questioned if the Board of Adjustment meetings could be held a different day of the week due to conflicting schedules with some of the Board Members. Discussion was held on changing the meeting night, procedure for making the change and which night would work better.

Spaeth made a motion to change the meeting night to the second Thursday of the month, beginning with the May 2005 meeting. Huesman second. All in favor. Motion carried. New schedules will be posted for the remainder of the 2005 meeting year.

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

Harry Johnston, Chairman

ATTEST

Patricia L. Johnson, Administrator