

Becker County Board of Adjustments
October 13, 2005

Present: Members Harry Johnston, James Bruflo dt, Jim Elletson, Jerry Schutz, Al Chirpich, Liz Huesman, and Zoning Staff Debi Moltzan

Chairman Elletson called the meeting to order at 7:00 p.m.

Schutz made a motion to approve the minutes from the September 15, 2005 meeting. Chirpich second. All in favor. Motion carried.

Elletson explained the procedure for the hearing and explained what constitutes a hardship. Johnston then explained the criteria for granting or denying a variance.

Old Business: Doris Schmidt, request a variance to construct a dwelling 26.5 feet from the ordinary high water mark of the lake. This application was tabled at the September meeting at the request of the applicant.

Jay Baker, nephew of Schmidt, explained the new plan. The new plan submitted showed a 16 ft by 70 ft mobile home in the same location as the old home. The newer mobile home would not be any closer to the lake than the existing home. The newer home would be 2 ft 7 inches from the rear lot line. Schmidt and Baker have talked to the Ramsey's, who own the property to the south, and they are in favor of the proposal. Baker stated that Ramsey wanted the property line surveyed, but cost was extremely high. Baker found one iron marker and used a GPS to locate the south property line. Baker, Schmidt and Ramsey agree that this is the property line.

Elletson stated that the current structure is 10 ft wide and questioned if that structure would be replaced with a 16 ft by 70 ft structure. Baker stated that the new structure would not be any closer to the lake than the existing structure and would be square to the lake. Schutz questioned if they have looked at constructing a two-story house. Baker stated that they did not want to spend that much money on the project.

Elletson stated that this is a difficult situation. White Earth Lake is a recreational development lake, which requires a 100 ft building setback. This lot falls entirely within this setback. Schutz stated that it is a difficult lot, but every effort should be made to try to keep the new structure out of the shore impact zone. Baker stated that if the structure were to be located where the Board suggests, it would interfere with the location that the maintainer turns around. Baker questioned why the setback from the property lines is a concern when the adjoining neighbor is in agreement with the proposal. Bruflo dt stated that just because the neighbor is in agreement, that does not mean that it is in harmony with the Ordinance. Chirpich stated that the decision is not up to the neighbor. Chirpich stated that there are specific criteria set forth for the Board to follow. Huesman felt that the structure should be moved out of the shore impact zone.

Johnston read the minutes from the previous meeting, which included the suggestions of the Board. Brufloft and Johnston felt that the Board has went out of their way with suggestions and the applicant is not considering them.

Schutz made a motion to deny the application because there is an alternate location for a structure outside the shore impact zone. Brufloft second. Johnston stated that the Board was not ready for a motion because testimony had not been closed. Schutz withdrew his motion and Brufloft withdrew the second to the motion.

Further discussion was held. Johnston stated that this is a small, delicate lot, which cannot accommodate a large structure. Johnston stated that even if a 14 ft wide structure in the same location as the existing structure were considered, the new structure would be located in the shore impact zone. At this time, testimony was closed.

Baker stated that he would be willing to go with a 14 ft structure in the same location as the existing structure. Brufloft felt that the applicant should come back with a new plan rather than the Board changing the plan.

At this time, Schmidt and Baker asked for a postponement to come up with another plan. **Motion:** Huesman made a motion to accept the applicant's request for a postponement. Chirpich second. All in favor. Motion carried.

FIRST ORDER OF BUSINESS: John Mickelson. Request a variance to construct a dwelling fifty (50) feet from the ordinary high water mark of the lake for the property described as: Lot 3 Block 1 Pepper Beach, Section 17, TWP 139, Range 38, Toad Lake Township. PID Number 33.0303.103.

Mickelson explained the application to the Board. The lot is not deep enough to meet the required 100 ft setback from the lake due to the wetland location. Mickelson stated that he did not know if the house would be stick built or a modular home, but the house would be 28 ft in width. Elletson questioned if there would be a lakeside deck. Mickelson stated that there are plans for a ground level patio.

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 topography of the lot, location of the proposed house and shore impact zone. Chirpich stated that the structure is located outside the shore impact zone and the lot drops off quickly toward the wetland. Johnston stated that the proposed location is the only location to place a structure.

Motion: Johnston made a motion to approve a variance to locate a dwelling fifty (50) feet from the ordinary high water mark of the lake based on the topography of the lot, location of the wetlands and the depth of the lot with the stipulation that there be no

lakeside deck within the shore impact zone, but a ground level, pervious, lakeside patio would be permitted. Chirpich second. All in favor. Motion carried.

SECOND ORDER OF BUSINESS: Harry Tate. Request a variance to allow the replacement of a second dwelling. The second dwelling is for temporary elderly care of a family member on the property described as: N ½ of NE ¼ Less Hwy, Section 21, TWP 138, Range 37, Spruce Grove Township. PID Number 31.0130.000.

Harry Tate, Evelyn Tate and Jack Bishop explained the application to the Board. Ms Tate currently lives in a mobile home on this farm site and her son and family live in a house. The existing mobile home is grandfathered-in. This mobile home is not safe and needs to be replaced. Under current regulations, the mobile home cannot be replaced. The purpose of the mobile home is for elderly care and would be removed after Ms Tate chooses not to live there or can no longer live there. Bishop submitted a letter to the Board, which shows the neighborhood's approval of the project.

Elletson questioned if the new structure would be located in the same location as the existing structure. Bishop stated that it would be in the same location. Elletson questioned if the water supply and septic system is adequate for the new structure. Tate stated it was.

Shana Tate spoke in favor of the application, stating that it has worked out in the past to be able to take care of her mother-in-law. 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. Brufloft stated that there is ample room for another structure and it seems reasonable to allow elderly care due to the high costs of nursing. Elletson stated that a similar variance was granted in 1999. Elletson read the conditions of the variance that was approved. Elletson questioned if those conditions would be acceptable to the Tate's. The Tate's agreed that those conditions would be acceptable.

Motion: Schutz made a motion to approve a variance to allow the replacement of a second dwelling with the second dwelling being used for temporary elderly care of a family member based on the fact that the structure will be a temporary structure and there is ample room on the property, with the following conditions:

1. The structure be located at the present mobile home site;
2. The mobile home will not be placed on a permanent foundation;
3. The mobile home will only be occupied by Evelyn Tate;
4. At the time Evelyn Tate chooses to no longer live in the mobile home, the Tate family must contact the Zoning Office and make arrangements to have the mobile home removed from the property;
5. The mobile home cannot become a rental unit.

Chirpich second. All in favor. Motion carried.

THIRD ORDER OF BUSINESS: David Johnson. Request a variance to construct a garage 50 feet from the ordinary high water mark of the lake on the property described as: Lots 1 & 2, Block 6, Shang-Ri-La; Section 8, TWP 142, Range 37; Forest Township. PID Number 12.0238.000.

Ray Vlasak explained the application to the Board. The garage would be constructed 50 feet from the OHW, but only 18 feet from the water's edge.

Elletson questioned how much higher the water had to rise before it reached a natural outlet. Vlasak stated that the lake would have to rise about another 9 feet. Discussion was held regarding topography, water height, location of the structure and use of the structure.

Vlasak, also speaking for the TWP, 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 location, size, topography, etc. Johnston stated the request is a reasonable size garage. Elletson questioned if there would be living quarters in the garage. Vlasak stated that it would be for storage and for a vehicle, no living quarters.

Motion: Schutz made a motion to approve a variance to construct a garage fifty (50) feet from the ordinary high water mark of the lake based on the topography and size of the lot of record with the stipulation that the garage is a single-story garage with no living quarters. Chirpich second. All in favor. Motion carried.

FOURTH ORDER OF BUSINESS: Marilyn Erickson. Request a variance to construct a foundation under an existing dwelling sixty (60) feet from the ordinary high water mark of the lake on a nonconforming lot which has a nonconforming guest cottage and exceeds impervious lot coverage by 3.7% on the property described as: Lots 15 & 16, Fern Beach Third Addition, Section 30, TWP 138, Range 41; Lake View Township. PID Number 19.1300.000.

No one was present to explain the application to the Board. Elletson explained the application, stating that the existing house is in need of a new foundation. Elletson stated that during the site visit, it was noted that the existing house is approximately ten feet in front of the established building line, with the deck being 41 feet from the OHW; there is a nonconforming guesthouse and impervious lot coverage exceeds the allowable limit by at least 3 to 4 percent.

Gail Hahn, Lake View Township, stated that the Township felt this was maintenance of the structure and does not have any objection to the project. 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.

Brufloft questioned if the paver blocks had been included in the impervious calculations. Consensus of the Board was that the paver blocks were not included in the calculations, which would make the amount of impervious material more than originally indicated. Further discussion was held regarding the nonconformities of the lot, the structural changes to the structure, whether or not the house could be lifted to place a foundation under it, and the 60-day rule.

Consensus of the Board was that if the structure could be lifted to place a foundation under it, then the structure could be moved back to meet the established building line, impervious material could be removed to bring the impervious coverage into compliance and the guesthouse could be removed. Schutz stated that there is no hardship of the property that would prevent the property from being brought into compliance.

Motion: Huesman made a motion to deny the variance to allow structural changes to a nonconforming structure based on the fact that there is no hardship of the property preventing the structure from being brought into compliance; the existing structure is located ahead of the established building line (string line); the amount of impervious coverage exceeds the allowable 25%; and there is a nonconforming guesthouse on a lot that does not meet duplex lot size. Chirpich second. All in favor. Motion carried. Variance denied.

FIFTH ORDER OF BUSINESS: Informational Meeting.

The next informational meeting is scheduled for Thursday, November 3, 2005 at 7:00 a.m. at the Planning and Zoning Office.

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

James Elletson, Chairman

ATTEST

Patricia Johnson, Zoning Administrator