

**Becker County Board of Adjustments**  
**March 9, 2006**

**Present:** Jerry Schutz, Liz Huesman, Jim Bruflodt, Harry Johnston, Steve Spaeth, Al Chirpich, Patricia Johnson and Debi Moltzan.

Vice Chairman Johnston called the meeting to order at 6:30 p.m. Debi Moltzan was the recording secretary.

Spaeth made a motion to approve the minutes from the November 2005 meeting. Chirpich second. All in favor. Motion carried.

Johnston outlined the format the meeting would follow. Bruflodt read the definition of a hardship and the criteria for granting of a variance.

**FIRST AND SECOND ORDER OF BUSINESS: Roger Nordby & Doyle Nordby.**

Roger Nordby's request: Request an after the fact variance to allow a deck to remain 36 feet from the ordinary high water mark of the lake for the property described as: Lot 2 Nemec Beach, Section 8, TWP 142, Range 40; Maple Grove Township. PID Number 20.0547.000.

Doyle Nordby's request: Request an after the fact variance to allow a deck 41.5 feet from the ordinary high water mark of the lake for the property described as: Lot 3, Nemec Beach, Section 8, TWP 142, Range 40; Maple Grove Township. PID Number 20.0548.000.

Johnston stated that each Nordby application would be acted upon and heard separately, but a brief summarization could be done for both properties at the same time. Johnston stated that each of the Board members had viewed the property and had reviewed the information submitted to them.

Johnson gave a brief history about the site permit process, the violations of the permits issues, the after the fact variance hearing; the appeal to District Court and the judges order remanding it back to the Board of Adjustments. Johnson stated that the Judge's order states that the first variance cannot be revoked.

Both Roger and Doyle Nordby gave a summary of what happened during the permitting process and felt there were miscommunication, misunderstandings, and confusion.

Carl Malmstrom stated that he was there to represent the Nordby's at the request of their attorney, Elroy Hanson, who could not attend this meeting. Malmstrom stated that he would assist where he could, but his role would be limited.

R. Nordby outlined the events from the notice of violation to this meeting. R. Nordby stated that no one contacted him about the setback on his structure being different from

what he had originally requested, so he assumed he was able to build where he proposed. The new structure would be located in the same footprint of the old cabin and the deck is in the same location of the covered patio. R. Nordby stated that he had never filled out a permit before and felt that if it were inaccurate, someone would have contacted him.

Johnston questioned if the site permit had been posted at the job site. Both Nordby's stated that the site permit was posted at the job site. Johnston questioned if anyone read what had been permitted. D. Nordby stated that Johnson requested numbers and established a building line off paper. D. Nordby stated that they did not realize the setback was from the deck, not the dwelling so only the setbacks of the dwellings were provided. D. Nordby stated that most lake homes have decks and does not know why that was not questioned at the time of application. D. Nordby stated that, at the last variance meeting, they tried to bring out the fact that the lake setback had been changed without their knowledge, but Johnson intervened and stated that the Board of Adjustments was not a judge and jury and that would have to be dealt with at a higher level, meaning District Court. D. Nordby stated that with Johnson's background, the permits should have been clear and judgments shouldn't have been made.

Johnston pointed out that D. Nordby stated that he knew the deck was part of the structure and the site permit issued and posted at the job site stated that the structure was to be 45 feet from the OHW. Malmstrom stated that the setback on the application was correct, but not on the permit issued. Spaeth stated that the permit application clearly stated cabin, not cabin and deck. Spaeth then questioned R. Nordby as to what he expected or hoped to get out of this meeting. R. Nordby stated that he has removed the 10ft octagon portion of the deck and removed all the plastic impervious material. R. Nordby stated that he would like to keep the remainder of the deck as it is.

Johnston stated that there was miscommunication on both sides (Nordby's and the Zoning Office); the permit was posted but not looked at or followed and a structure includes a deck. D. Nordby stated that the Board needs to question the Zoning Office's procedure on the issuance of these permits.

Malmstrom stated that there was nothing to compel R. Nordby to build a new house; he could have maintained what he had. R. Nordby was not given a change to apply for a variance before the site permit and was forced to address issues after the fact. Malmstrom felt the situation would have been looked at differently. Ronni Nordby stated that they were never told anything about a variance. Johnston stated that a variance would only be necessary if the string line procedure cannot be applied.

No one spoke in favor of the application. No one spoke against the application. A letter of opposition was received from Will Stearns. At this time testimony was closed.

Further discussion was held regarding the interpretation of the applications and permits, lot size, deck location, and location of the old structures. Schutz stated that it is the responsibility of everyone to be good stewards of the lake and that in most situations; it is

found that the homeowner is at fault. Schutz felt the property had reasonable use and some compromises have been made, but there is room to make more compromises.

Brufloft questioned how long the Nordby's have been on White Earth Lake. The Nordby's stated that they have enjoyed the lake since 1955 1956. Brufloft asked the Nordby's if they were concerned about the lake. Both Nordby's stated that they were concerned about the lake.

Schutz felt that erosion control measures could be improved on this lot. Schutz felt that gutters and down spouts could be placed on the home with run off being directed toward the road, natural vegetation could be planted on the hillside. Chirpich questioned what happens if the Board allows this variance. Chirpich stated that the next person will ask for the same thing or one even closer to the lake. Brufloft stated that there will always be after the fact permits. Brufloft felt that if the Nordby's were willing to make compromises, it was worth looking at allowing them to keep their decks. Spaeth stated that natural means that the area cannot be trimmed or mowed, it has to be left to grow wild.

Chirpich asked Johnson if the Nordby's had reenacted the history of the case accurately. Johnson stated that it was fairly accurate, there was lack of communication, but it is the responsibility of the landowner to comply with the site permit issued.

**Motion:** Schutz made a motion to approve a variance to allow a deck thirty-six feet from the ordinary high water mark of the lake based on the size of the lot with the stipulation that 70% of the shoreline be planted with native vegetation, with the depth of planting beginning at the OHW and the depth to the crest of the hill and that all storm water run off (from the home and the ground) be directed to the roadside of the lot and the lakeside octagon portion of the deck be completely removed. Spaeth second. All in favor. Motion carried.

D. Nordby stated that on his permit there were errors on the permit and confusion on the setbacks. D. Nordby would like to leave the deck as is and offer other compromises. Spaeth questioned the deck at the water's edge. Johnston stated that the deck at the water's edge cannot be brought into this discussion.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Will Stearns in opposition to the application. At this time, testimony was closed.

Further discussion was held regarding interpretation of the applications and permits, lot size, deck location, and location of the old structures.

**Motion:** Schutz made a motion to approve a variance to allow a deck forty-one and one-half feet from the ordinary high water mark of the lake based on the size of the lot with the stipulation that 70% of the shoreline be planted with native vegetation, with the depth of the planting beginning at the OHW and the depth to the crest of the hill and that all

storm water run off (from the home and the ground) be directed to the roadside of the lot. Spaeth second.

Chirpich questioned if there would be further problems on the roadside of the properties if there is already ponding water along the road and more water is diverted to this location. Johnson stated that there are other issues, along with impervious concerns that will be addressed by the Zoning Office.

A vote was taken with everyone voting in favor. Motion carried.

**THIRD ORDER OF BUSINESS: Jim & Cheri Buus.** Request a variance to allow a structure 54 feet from the ordinary high water mark of the lake on the property described as: Lot 3; Section 2, TWP 139, Range 40; Erie Township. PID Number 10.0013.000 & 10.0028.000.

Johnson explained that this application was submitted prior to the shoreland mitigation regulation changes. With the new mitigation process, many applications similar to this one will not be heard by the Board of Adjustments.

Buus and Jay Weiher, Whispering Pines Log Homes, explained the application to the Board. The lot is nonconforming and has irregular shape. The old mobile home has been removed and the cabin has been gutted and is being used for storage.

Johnston questioned if the location that was staked out included the patio. Buus stated that it did not. Brufloft questioned if there would be a lakeside deck. Buus stated that there would just be a patio. Spaeth questioned the type of construction. Buus stated that there would be a walkout basement, one story with a loft. This layout would allow for parking at the top of the hill and eliminate parking by the lake.

Schutz questioned the location of the entrance to the house. Buus stated that there would be a landing and steps on the westerly side of the house and on the southerly side of the wing. Buus stated that there is already a natural berm that catches run off before it enters the lake. They have also started natural plantings in front of the existing storage shed. Buus presented photos to the Board.

Schutz stated that he would like to see the storage building relocated out of the shore impact zone. Buus stated he has no immediate plans for the storage shed or for a garage but may have in the future.

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 location, setback, size and topography of the lot, and location of the storage shed. Discussion was also held regarding the containment of run off from the present driveway. Buus stated that he may tar the driveway, which

has already been included in the proposed lot coverage. Discussion was also held regarding relocating the existing storage structure or rebuilding a new storage structure.

**Motion:** Spaeth made a motion to approve a variance to locate structures fifty-four (54) feet from the ordinary high water mark of the lake and seventeen (17) feet from the rear property line based on the size, shape and topography of the substandard size lot of record with the stipulation that the existing storage shed be relocated outside the shore impact zone by the end of the 2006 construction season and remain uninhabitable and the proposed patio be constructed of a pervious material. Bruflo dt second. All in favor. Motion carried.

**FOURTH ORDER OF BUSINESS: Informational Meeting.**

The next informational meeting is scheduled for Thursday, April 6, 2006 at 7:00 a.m. at the Planning and Zoning Office.

**FIFTH ORDER OF BUSINESS: Election of Officers.**

Schutz made a motion to nominate Johnston for Chairman. Spaeth second. Nominations ceased. Vote was all in favor for Johnston as Chairman.

Spaeth made a motion to nominate Bruflo dt for Vice Chairman. Huesman second. Nominations ceased. Vote was all in favor for Bruflo dt as Vice Chairman.

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

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Harry Johnston, Chairman

ATTEST

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Patricia L. Johnson, Administrator