

Becker County Board of Adjustments
August 08, 2006

Present: Members: Jerry Schutz, Harry Johnston, Jim Bruflo and Steve Spaeth.
Zoning Staff: Patty Johnson and Julene Hodgson

Chairman Harry Johnston called the meeting to order. Julene Hodgson took minutes.

Minute approval: The minutes were discussed with a correction being noted on page 3 under the fourth order of business. (Lake ~~Eunie~~ View Township Supervisor Gail Hahn spoke in opposition of the application.) Spaeth made a motion to approve the minutes with the correction from the July 13, 2006 meeting. Schutz second. All in favor. Motion carried.

Johnston explained the protocol for the meeting. Bruflo read the criteria for granting or denying a variance.

Old Business:

APPLICANT: Timothy Doohar, 2143-129th St NE, Blaine, MN 55449.

APPLICATION AND DESCRIPTION OF PROJECT: Request a Variance to construct a garage 10 feet from the road right of way and 35 feet from the rear property line, deviating from the required setback of 45 ft from the road right of way and 40 ft from the rear lot line. Project Location: 11930 Ravenswood Beach Dr. LEGAL LAND DESCRIPTION: Tax ID number: R.19.1700.000, Lot 11 and Pt Lot 16 Ravenswood First Addition; Section 28, TWP 138, Range 41; Lake View Township. The property is located on Lake Melissa.

Previously tabled July 13, 2006, there was no further information presented to the board on behalf of the applicant.

Motion: Spaeth made the motion to deny the variance. Schutz second. All in favor. Motion carried.

FIRST ORDER OF BUSINESS: Donald Muhs 11730 Ravenswood Beach Rd Detroit Lakes, MN 56501 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct an addition onto an existing garage 38' feet from the road centerline, due to the substandard sized lot of record. Project Location: 11730 Ravenswood Beach Rd LEGAL LAND DESCRIPTION: Tax ID number: R19.1693.000 Lot 22 Ravenswood Section 28, TWP 138, Range 41 Lake View Township. The property is located on Melissa Lake.

Donald Muhs and spouse explained the application to the Board. Muhs explained the reason for the variance is for a larger garage, 5' more for pontoon on substandard sized lot.

People present spoke in favor of the application. Victor Rolle had no objection and stated he thought it was a reasonable request. Dean Hempel thought it would be a benefit to the owners because of added room. Lake View Township Supervisor Gail Hahn spoke on the Township's behalf and had no objection. Neal Seeger felt it would not be encroaching any closer than neighboring structures. 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. A determination of where the actual road right of way is should be done to verify measurement.

Motion: Spaeth made the motion for a variance approval to construct an addition onto the existing garage five (5') feet from the road right of way as this is compatible to the neighborhood. Schutz second. All in favor. Motion carried.

SECOND ORDER OF BUSINESS: Trustees of Shoreham Chapel 6817 Point Dr Edina, MN 55435 APPLICATION AND DESCRIPTION OF PROJECT: Request a Variance to construct an addition with bathroom 2 feet from the side property line which differs from 5 feet minimum and 6 feet from the rear property line which differs from 40 feet, due to the substandard sized lot of record. Project Location: 24263 N Melissa LEGAL LAND DESCRIPTION: Tax ID number: E19.0025.000 N 70' Of Aud Lot 26 & that pt of Aud Lot 24 N of Lots 26 and 27 Corbetts 3rd Add Less 15' strip NW of NW corner Lot 27 Section 20, TWP 138, Range 41 Lake View Township.

Robert Johnson explained the application to the Board. Johnson stated the reason for the variance is to gain added space, a restroom with handicap accessibility and a second entrance/exit into Chapel on a sub-standard sized lot.

People present spoke in favor of the application. Trustee James Dixon stated he was in favor. Trustee Brad Olson stated it would be nice to have extra space for weddings and baptismal ceremonies. Jean Rolle, husband, sister-in law and secretary Darlene Rolle all spoke in favor of having a second doorway and handicap use. Donata Nellerroe from the Chapel board spoke of their attendance growing. Lake View Township Supervisor Gail Hahn spoke on behalf of the township of approval toward request. She spoke with her approval to dispose of the outdoor privy that is now being used. There was written correspondence from adjacent property owner and potential new property owner giving permission to Shoreham Chapel to deviate from the side property setback. No one spoke against the application. At this time, testimony was closed.

Further discussion was held. Spaeth questioned why so close to the adjacent property line? It was explained the new addition would look like the rest of the church with previous funds from neighboring parcel and permission to put it closer to property line. Schutz noted the Chapel had large use with a lot of seniors that attended without accessibility or toilet facilities. Spaeth asked months of use. Johnson explained they used the Chapel from the middle of June to the end of August.

Motion: Schutz made a motion of a variance approval to construct an addition onto the existing structure as indicated on the site plan up to adjacent property line and 6 feet from the rear property line. Spaeth second. All in favor. Motion carried.

THIRD ORDER OF BUSINESS: Eugene Davidson 43275 218th St Osage, MN 56570
APPLICATION AND DESCRIPTION OF PROJECT: Request an after the fact Variance to allow a newly constructed enclosed porch to remain 39 feet from the ordinary high water mark of the lake which is located in the shore impact zone area, due to the substandard sized lot of record. Project Location: 43275 218th St
LEGAL LAND DESCRIPTION: Tax ID number: R33.0027.000 100 ft E & W By 200' N & S Section 4, TWP 139, Range 38 Toad Lake Township. This property is located on Toad Lake.

Eugene Davidson and spouse explained the application to the Board. The owners thought they had permission beforehand to add new addition forward onto dwelling that had just received a variance. Spaeth requested the minutes from the previous variance be read. Johnson read the motion that allowed the dwelling to be 50' from the ordinary high water mark of the lake. They were under the understanding they could have a porch not a patio. Schutz explained the difference between an open patio to a three season fully enclosed porch.

People present spoke in favor of the application. Mary Baumgart stated she felt they would not do something without permission, felt the porch looked nice and in line of neighboring structures, hoping the board will let the addition remain. Toad Lake Township speaker George Zick said the old patio looked terrible and the new one looked nice in the area. There was written correspondence on file from Big Toad Lake Improvement Association President Fred Tuominen. Johnson read the letter to members. The letter stated he didn't feel there would be additional harmful impacts that would result to Toad Lake for structure to remain as long as appropriate mitigations would be completed and upon completion would be viewed as a favorable improvement to the property. No one spoke against the application. At this time, testimony was closed.

Further discussion was held. Schutz questioned if there were gutters on the existing dwelling. Johnston asked how many exits from home. Davidson answered three. Spaeth remembered they discussed ground level patio at previous variance but not an enclosed porch because this would keep all of the structure out of the shore impact zone. Schutz asked if addition could be relocated to side entrance. Davidson said that is where septic is placed. Schutz asked Johnson definition of patio. Johnson stated a patio is 6 inches from ground level, the addition would be considered part of the dwelling because it is enclosed with roof and walls. She explained that 50 feet back from the ordinary high water mark of

the lake would be considered the shore impact zone area which the ordinance states there is to be no impervious in this area.

Motion: Schutz made the motion for a variance approval to allow porch to remain with the stipulations as follows: 70 feet of shoreline to be put back into natural vegetation, a water storm management plan in place for natural runoff, gutters & downspouts to be placed onto structure, french drain and shoreline berm. Spaeth second. All in favor except Brufloft. Majority ruling. Motion carried.

FOURTH ORDER OF BUSINESS: Laurel Winsor 13060 Fairhaven Ln Detroit Lakes, MN 56501 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a new dwelling on a nonconforming lot with 2 guest cottages in the shore impact zone area, due to the substandard sized lot of record. Becker Co Ordinance states one dwelling per parcel of land, unless riparian lot meets or exceeds duplex lot area, lot can have one small guest cottage. Parcel does not meet size for one guest cottage. Project Location: 13060 Fairhaven Lane **LEGAL LAND DESCRIPTION:** Tax ID number: R 19.1419.000 Lot 9 Kenney Beaton Beach Section 17, TWP 138, Range 41 Lake View Township. This property is located on Sallie Lake.

Applicant Laurel Winsor and spouse Frank Winsor, Attorney Brant Beeson and Contractor Mr. Tweeton explained the application to the Board. Tweeton stated the reason for the variance was to replace the existing main dwelling due to mold and unsure foundation. The owners have two cottages that he felt where of historic value. Schutz asked if new dwelling dimensions presented where correct at 40'x48' with two stories? Tweeton stated yes. The proposed new dwelling would be 170'-180' from the lake so there would be no drainage issues. Schutz asked if the cottages where used for other than family to which the Winsor's answered they are used just for family. Schutz asked to explain new dwelling proposed square footage with any proposed porches and decks. Tweeton explained basement under partial, two stories, three season porch and small deck. Dwelling would have better stairs, larger living room, no bedrooms in basement. Chairman Johnston stated the parcel all drains toward the lake & neighbor Kenney. Brufloft questioned when the concrete work was put onto parcel. Winsors stated 2002. Winsors stated the cottages where also worked on, with the #2 cottage deck being totally rebuilt. Chairman Johnston stated the concrete slab was put in without permission in the Shore impact area. Johnson stated measurements indicate the hill where new home is proposed is a bluff area. The setback requirements would be 10' from side property line, 10' from septic tank, 20' from drainfield and 30' from top of bluff.

People present and by written correspondence spoke in favor for the application. Jean Moe new dwelling would not be seen from the lake, add to ambiance. Dewey Buck wrote a letter in support and spoke of current home being in disarray. Aaron Wolff wrote physical layout of property precludes many options for replacement of existing house. Richard & Ann Eveslage wrote they are in support to rebuild home. Dick & Lonni Beaton wrote they have no problem with the Winsors building new home because they cannot see their home from their house. Pat & Sue Kenney wrote the current density is substantially less than the historic nature of the area of when Fairhaven resort had 30

cabins in same area. They wrote they cannot put their current dwelling to reasonable use because of the mold issues. John & Mary Beaton wrote they have no objection to request. Linda Winsor wrote her parents bought lake home with two dilapidated guest cottages in 2001 that were unlivable. She stated because of mold & crumbling foundation, it is necessary for her parents to have a safe & livable home. Brant Beeson from Beeson Law Office is representing the Winsors. On a letter in behalf of the Winsors, he stated there are certainly special circumstances affecting the building, they cannot put their home to reasonable use. Lake View Township Supervisor Gail Haahn stated the township was not opposed to the request of the new dwelling.

A letter from the Administrator Tera Guetter of Pelican River Watershed District was read in opposition of the request. On behalf of the Board of Managers, she offered recommendations and findings. The north guest cabin & deck are entirely located within the shore impact zone. The south guest cabin is appr. 24' back from the water with still the ice ridge intact along shoreline. The stamped cement pad lies within the shore impact zone. Recommendations made to remove north guest home and concrete located within shore impact area, restore ice ridge & vegetation. New dwelling should make 30' setback from bluff top for house & decking with storm management plan in place. Gail Hahn spoke against cabins being down in shore impact area. At this time testimony was closed.

Further discussion was held. Chairman Johnston discussed the drainage issues of the parcel going down to the lake. He noted the Winsors working on the cottages that were "dilapidated & unlivable" and the adding of all the concrete with no permits or guidance from the zoning office. He stated the hardship of the dwelling was man made from poor drainage issues. There was discussion of reasonable use of the parcel. There was discussion of the parcel size not large enough for one guest cottage. Number 2 cottage is 37 ½' back & number 1 is 23' back. Brufloft discussed the concrete by the shore. Schutz discussed the situation of water runoff.

Motion: Schutz made a motion of approval to allow construction of a new dwelling with the following stipulations: New dwelling including all decks to be 30' from top of the bluff with storm-water management to include gutters, spouts, French drains & possible water garden. Guest Cabin #1 located in the shore-impact zone is to be removed from property with the shoreline restored to natural vegetation and berm. All concrete in the shore impact zone to be removed with overall lot coverage not to exceed 25% and owners to work with all ordinance regulations. Spaeth second. All in favor except Schutz. Majority ruling. Motion carried.

FIFTH ORDER OF BUSINESS: Brad Solheim 449 Lakeview Terrace Blvd Waconia, MN 55387 APPLICATION AND DESCRIPTION OF PROJECT: Request a Variance from the MURD section of the Ordinance to: 1. Allow units in 1st tier to be 100 ft from the ordinary high water mark of the lake which differs from the required setback of 150 ft. 2. Allow 17 boatlifts which differs from 8 boatlifts. 3. Allow a 20 ft side property setback which differs from 80 feet. 4. Allow to add 1 more unit having a total of 17 units which differs from 16 units. Project Location: Southwest Shore of Lake Maud LEGAL

LAND DESCRIPTION: Tax ID number: R 17.0321.000 Lot 1 Section 28, TWP 138, Range 42 Lake Eunice Township. This property is located on Maud Lake.

Applicant Brad Solheim, his consultant and Chris Heyer explained the application to the Board. Solheim stated he has been working with the ERTTP with application first submitted as a lot & block development. Several entities were involved including DNR, soil & water, Lake Association & township with concerns over this proposal. They suggested a proposal for a MURD. Solheim thought some of the ordinance for this was possibly too restrictive, so he applied to the Board for variances. There are some steep slopes, but no bluff issues. Each unit would have 10,000 sq ft. Dense woods with impact to neighbors non-existent. Channel boats to two slips to protect interest but not impact. No roads, with only walking paths to lake. No storage units. More private located septic. Spaeth questioned about wells which Solheim stated the Board is not approving the plat just the variance request. Johnson read letter from DNR Robert Merritt. Audience member asked if an EAW has been requested to which Johnson stated no. John Postovit who is a member of the ERTTP stated the panel offered concept- not design regarding density. He explained how each agency discussed issues suggested & all were in agreement for Solheim to go back & re-look at concept to place design to help with questions. Johnson explained how each member helps with each issue regarding density, wetlands, lake & land use.

No one spoke in favor of the application. There were both people present and written letters of people against the application. Livermore stated that this was a non-public access side of the lake, with front area of crappy spawning & vegetation concerns. He questioned where the hardship of the parcel was. Curt Stensgard felt proposed units would have impact on the lake & wetlands located on parcel. Maud Lake Association COLA rep Bill Sherlin opposed against variance requests. He questioned management in future. Parcel has challenges for development with even maximum allowed, felt unsuitable for what was being proposed. He stated the ERTTP didn't give stamp of approval but a concept only. Solutions should be found within existing ordinances. He wanted to remind the Board what was reasonable use on marginal property with sensitive development. Julie Scothorn reminded Board property is zoned Agricultural. Merle Hanson stated no-one showed proposal to lake people. Dave Mornville felt slips would make large impact. He stated it would be dense residential area on marginal property. He felt this would hold precedence over future MURD proposals. Mike Thompson stated the variance process should work with hardships to benefit the lake. Ron Stensgard was concerned about the weed beds and the quality of the lake with increased usage. A letter from the COLA association was read. It stated they do not agree with the request for an increase in housing unit density. They support the two shore recreation areas, however, recommend that both areas combined not disturb more than 200' of shore. Vogel law firm Tami Norgard representing the Lake Maud Association, also submitted a letter for review strongly urging the board to deny the request for the variances. Jane Butzer wrote she thought the requests seem extreme & detrimental to the lake. At this time testimony was closed.

Further discussion and deliberation was held. Chairman Johnston asked Zoning Administrator if any considerations could be sent back to the Planning Commission Board. Zoning Administrator explained the Board of Adjustments had to review & act on the variance requests. Spaeth asked if there would be restrictions of cutting of trees and work with developer of where homes are to be placed in each unit. Schutz asked if there where any covenants proposed, Solheim stated yes. Schutz discussed each of the requests with the pros & cons for each one. He questioned if there was a hardship due to the topography (terrain) of the parcel to appropriate the 100' setback request. Spaeth said lake setback request seemed appropriate, he felt 20' side request too close. Slips not a problem but to limit development footage. Bruflo dt questioned the density request for extra unit.

Motion: The Board of Adjustment Variance decisions where as follows: (**Spaeth made motion. Schutz second.**) **1. Approved** units in 1st tier to be 100 ft from the ordinary high water mark of the lake. (**Spaeth made motion. Bruflo dt second. Schutz opposed.**) **2. Approved** to allow a total of 16 boatlifts in two locations. Two access areas combined not to exceed 200 ft total area. (**Schutz made motion. Bruflo dt second.**) **3. Denial** of a 20 ft side property setback from the 80 ft regulation. (**Spaeth made motion. Schutz second.**) **4. Denial** of 17 units from the 16 units calculated by the parcel density area. **All in favor except areas noted. Majority ruled. Motion carried.**

Informational Meeting.

The next informational meeting is scheduled for Thursday, September 7th, 2006 at 7:00 a.m. at the Planning & Zoning Office.

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

Jim Bruflo dt, Chairman

ATTEST

Patricia Johnson, Zoning Administrator