

**Becker County Board of Adjustments
August 9, 2007**

Present: Members: Bill Sherlin, Al Chirpich, Steve Spaeth, Eugene Pavelko, Clifford (Kip) Moore and Jerry Schutz.
Zoning Staff: Administrator Patty Swenson and Julene Hodgson.

Vice Chairman Steve Spaeth called the meeting to order. Julene Hodgson took minutes.

Minute approval: The July minutes were discussed.
There was an error of May 10th date in the motion to approve the corrected minutes from the June 14th, 2007 meeting.
Sherlin made the motion to approve the corrected minutes from the July 12th, 2007 meeting. Moore second. All in favor. Motion carried.

Vice Chairman Spaeth explained the protocol for the meeting. Sherlin read the criteria for granting or denying a variance.

FIRST ORDER OF BUSINESS: APPLICANT: Douglas Barfield 15667 W Little Cormorant Rd Audubon, MN 56511 **Project Location:** 15667 W Little Corm Rd
LEGAL LAND DESCRIPTION: Tax ID number: R170051000 Little Cormorant Lake PT Lot 3 Beg 80' E & 327' S of SW Cor Blk Hwk Mt Bch 1st TH 171.31' E 169.09' TO. Section 05, TWP 138, Range 42. Lake Eunice Township **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a 16x26 dwelling addition onto a non-conforming structure due to the substandard size lot of record. The structure is located 47.5 ft from the Ordinary High Water Mark (OHW) of Little Cormorant Lake and is also ahead of the established stringline. The proposed addition will be 92.5 ft from the OHW. The proposal deviates from the required stringline setback and the required OHW setback for a Recreational Development lake (100 ft).

Applicant Keith Bosek explained the application to the Board in behalf of Douglas Barfield. The proposed addition would be to the back of the existing structure, no closer to the lake. The couple is living here full time and would like an addition that is handicap accessible because of medical reasons. Present lot coverage is at 24 % with proposal. Would put a handicap ramp eventually on the front side of deck, no closer to the lake. The addition would be adding to the second level toward the back, same height with one story proposed.

No one spoke in favor of the application. No one spoke against the application. There were no letters of correspondence in the file. At this time, testimony was closed.

Further discussion was held by the Board. Sherlin stated the only part of the existing structure in the shore impact area is the present deck. The handicap access would have to be addressed in the future, it is not part of this proposal. Schutz reminded Bosek that increasing lot coverage now means possibly having to remove impervious material at a

later date to remain under 25% with any new proposals of impervious. Moore stated a lot could be done with removal on the parcel such as the asphalt. Chirpich stated if the deck is cut down, it would be out of the shore impact area. Spaeth stated the lot slopes and all the water runoff flows to the lake. Pavelko stated there could be more vegetative buffer to help manage runoff. The Board asked Bosek if there are stipulations attached to the Variance, is Bosek able to make decisions for the owners tonight in which Bosek answered yes. Spaeth asked if the deck was downsized, would a variance still be required. Swenson answered yes because the present non-conforming dwelling is also located ahead of the existing stringline. Schutz stated it was more important to address the runoff issues and storm management of the property because of the slope to the lake. Mitigation would be required and addressed for storm management because of adding to the lot coverage. Schutz asked Swenson if the wording of the Variance actions could include the stipulation of mitigation for stormwater management to regulate runoff to the lake. Swenson stated the property owner can work with the Zoning office to implement their plan. Schutz suggested gutters, spouts, possible french drains, infiltration basins or swales.

MOTION: Schutz made the motion a Variance to construct a 16x26 dwelling addition onto the back of an existing dwelling be granted based on the property owner implementing stormwater management practices through mitigation to regulate the runoff to the lake. Sherlin second. All in favor. Motion carried.

SECOND ORDER OF BUSINESS: APPLICANT: Wayne Henderson 24368 Woodland Lane Detroit Lakes, MN 56501 **Project Location:** 24368 Woodland Lane **LEGAL LAND DESCRIPTION:** Tax ID number: R190783000 Lakes Sallie and Monson Aud Plat 138 41, Lots 6 and 7; Section 08, TWP 138, Range 41. Lake View Township **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a 1040 sq ft storage shed 37 ft from the centerline of a non-dedicated Township Road and 65 ft from the Ordinary High Water Mark (OHW) of Monson Lake due to setback issues. This deviates from the required setback of 53 ft from the centerline of a non-dedicated Township Road and 100 feet from the lake.

Wayne Henderson explained the application to the Board. The property is split by the public roadway and has Lake Monson on one side and Lake Sallie on the other side. The garage proposed would be on the Lake Monson side of the property. The owner didn't think erosion was an issue. Garage would be adjacent to existing house and is needed for storage. Chirpich asked if Henderson made any effort to survey or locate the property pins to show the true 30 foot road corridor that runs through the property. Henderson had not. Henderson stated the boundaries were established when the home was built, there is a Variance in place for the existing home. Chirpich stated the request was to locate the garage 37 feet from the centerline of existing road, but the measurements upon the tour was 27 feet from the road. Henderson stated the garage could be moved 10 feet closer to the lake. Sherlin stated if the garage was proposed closer to the lake, it would cause more runoff to the lake because of the ridge running through the property east and west. Owner

could place eaves and spouts to go toward road not lake. Spaeth stated the cut slope and drive by house slopes toward the lake. Spaeth had concerns that more hard surface of the new garage would cause more runoff. Henderson stated the ground is very porous because of sand and gravel.

No one spoke in favor of the application. No one spoke against the application. A letter in favor of the project was read from neighbor Bonnie Thompson. At this time, testimony was closed.

Chirpich stated the structure placement would be relative to the 30 feet corridor of the public road pins, not the center line of the existing road. Without knowing where this area is, it is hard to know where the true right of way would be. Moore stated this is the same problem as the neighbor next door, we can't assume the center of the existing road is the true roadway. The owners should try to locate the pins or hire a surveyor. Possibly Henderson and neighbor could work together. Spaeth reminded the applicant that if the applicant tables the application, it could be revisited at a later date when this information has been collected. When the property pins are located by the property owner or through survey, the owner can come back to the Board under old business. If the Board has to act on the application this evening, the Board would deny the application based on lack of information. **At this time, the property owner asked to table the Variance application until a later date to bring back the road information to the Board.**

THIRD ORDER OF BUSINESS: APPLICANT: Nancy Hansen 3845 Lyndale Ave S Minneapolis, MN 55409 **Project Location:** 39551 Elbow Ln **LEGAL LAND**

DESCRIPTION: Tax ID number: R090003000 Elbow Lake 8.63 ac Lot 6 Less S 100' & less 22.87 acres; Section 01, TWP 420, Range 39. Eagle View Township

APPLICATION AND DESCRIPTION OF PROJECT: Request a Variance to replace an existing deck in the same location with the addition of a five foot extension to the structure due to the undemonstrated hardship of the parcel. The proposed deck will be located 54 ft from the Ordinary High Water Mark (OHW) of Elbow Lake and ahead of stringline. This proposal deviates from the stringline requirement and the required lake setback for a Recreational Development lake (100 ft).

Nancy Hansen explained the application to the Board. The request is for the main entrance of the existing old cabin on the property. The old deck was smaller and has been removed for safety reasons.

No one spoke in favor of the application. No one spoke against the application. There were letters of correspondence in the file in favor of the application read to the Board from Steve Meyers, W.R. Hanson, Max Voss, Beth Herby, Donald Sandun, and Carolyn Thorkildson. At this time, testimony was closed.

Further discussion was held. The new deck would be larger than the old one, but the proposed steps would go toward the back of the deck, not toward lake. The Board asked if the deck would be attached to the home. Hansen stated the footings would be placed

away from the home for the new deck and would not be attached to the home. The deck will be constructed to be pervious. Sherlin stated to the Board the existing cabin is close to the lake and could be moved back into the property when proposed new to meet the stringline and lake setback better. Moore suggested to leave the deck free standing and away from the current structure as not to attach it or change the foundation of the existing cabin.

MOTION: Chirpich made the motion a Variance to construct a 20x10 deck onto the existing non-conforming structure ahead of stringline be granted due to a main access needed into the dwelling. The deck is to be constructed as unattached to the current dwelling and of pervious material. If any future improvement is proposed to the non-conforming structure or proposal of a new structure, the Variance becomes null and void. Pavelko second. All in favor. Motion carried.

FOURTH ORDER OF BUSINESS: **APPLICANT:** Christopher Vinton 31265 Eagle Lake Rd Frazee, MN 56544 **Project Location:** 31265 Eagle Lake Rd **LEGAL LAND DESCRIPTION:** Tax ID number: R030336000 Boot Lake PT Lots 5-6 Beg 40' S & 170' W of SE Cor of Rd to Eagle Lk Peak TH S to Lk 460'; Section 33, TWP 138, Range 40. Burlington Township **APPLICATION AND DESCRIPTION OF PROJECT:** Requesting a Variance to construct a 1440 square feet storage shed 185 ft from the Ordinary High Water Mark (OHW) of Boot Lake due to the topography of the parcel. This deviates from the maximum allowable detached accessory structure size to not exceed 1200 square feet within 200 feet of a lake.

Christopher Vinton explained the application to the Board. The property has a steep hill and Vinton would like to leave the area intact to prevent erosion. If Vinton went back the 200 feet to propose a larger size structure, the structure would be constructed into the hill area. Vinton could make the setback without a Variance but feels it would be an impact on the property. The request is for storage of equipment mostly for work purposes. This could help with quick response for emergency situations. Owner feels this is a reasonable request of only 240 sq ft more structure and so the hill will not be impacted. The measurement the owner took was up the hill, not a straight line, so the measurement the Board took on the day of the tour is more accurate. The new structure is proposed at approximately 161 feet to closest the point. Sherlin asked why this exact size was being requested. Vinton stated with the equipment that is needed for his work, he wanted to be able to store everything on his property.

Kathleen Froelich spoke on behalf of Burlington Township Board. They are in favor of the application. The flat area proposed for the structure would be a better location rather than cutting into the hill. No one spoke against the application. There were no letters of correspondence in the file. At this time, Testimony was closed.

Further discussion was held. Spaeth stated if permitted the property would then have a larger nonconforming structure on it. The building goes with the property and might not be for the need of the next owner. Sherlin stated he understood and appreciated the Vinton request, but the request must be for the property, not specific for the needs of the

current owner. The property could have a smaller conforming structure that would make the setbacks and have no impact on the property. Then if the owner moves, the property is still a conforming property. Vinton asked the purpose of the setback regulation of a larger structure permitted if you are further back from the lake. The Board discussed the reasoning behind wanting smaller sized structures closer to the lakes. The Board discussed properties having more than one accessory structure as long as they do not exceed the 25% lot coverage. The Board stated there could be other locations proposed for accessory structures that would not impact the hill area on the Vinton property that would not require a Variance. The Board stated the request is for a larger sized accessory structure to be located closer than 200 feet from the lake. The 150 feet lake setback is not the issue, it is the size requested, the location requested less than 200 feet for the larger structure and the topography. Swenson reminded the Board that the topography is the request of hardship issue, along with the size. Spaeth stated by granting the variance it might actually be better control for the runoff to the lake from the hill. Sherlin stated the structures are getting too large on the lakes. Sherlin can't speak for the members that make the regulations, but the Board must act on the 6 criteria guidelines for hardship, not specific needs. The owner could look at the minutes from previous denials of larger proposed structures closer than 200 feet from the lakes on larger sized lots. Chirpich stated one had topography, road and wetland issues and the other had wetland issues, but both properties had the area that made all the setbacks to build a conforming smaller structure. The owner is presenting the request as if the hardship is based on occupation and personal needs. Schutz stated the request is more for the owners occupation and the Board doesn't want to be setting precedent for future requests.

MOTION: Schutz made the motion a Variance to construct a 1440 square feet storage shed less than 200 feet from the Ordinary High Water mark of the Lake be denied due to an undemonstrated hardship of the property. Chirpich second. All in favor but Pavelko. Motion carried.

FIFTH ORDER OF BUSINESS: **APPLICANT:** Milton Tweten 923 2nd St S Moorhead, MN 56560 **Project Location:** 11488 Maple Lodge Rd **LEGAL LAND DESCRIPTION:** Tax ID number: R170911000 Cormorant Lake Maple Lodge Lot 27; Section 27, TWP 138, Range 42. Lake Eunice Township **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to replace an existing dwelling deck with a larger deck located 2 feet from the side property line, ahead of the established stringline of neighboring properties and 62 feet from the ordinary high water mark of the lake. This deviates from the 5 ft side property setback, the 100 feet lake setback and structures not to be located ahead of stringline, due to the substandard sized lot of record.

Milton Tweten explained the application to the Board. The request is proposed for a larger deck located on the lakeside of the dwelling. The existing dwelling is too close to the side property line and ahead of stringline. Spaeth stated to the owner that based on the tour and review of the property, it seems the property is currently over the 25% lot coverage. The proposal the owner turned in did not include an impervious patio that was not permitted between the dwelling and the garage. The owner proposed the deck at 62 feet from the waters edge and the Board measured 51 feet to the closest point of the

proposal. The owner could propose to remove some hard surface from the property. Although the deck proposed would be pervious, the lot has to be brought down to conformity before the larger deck could be addressed. The owner could remove the patio blocks, but the owner must first prove total lot area and amount covered. The owner could survey the property and re-measure hard surface to show percentile. The Zoning Office could approve a placement of a 4 feet by 6 feet pervious landing with steps to gain access out of the front entrance of the dwelling, but the larger deck proposed cannot be addressed until the lot coverage issue is remedied. Schutz recommended the apron of the garage and sidewalks could be replaced with pervious pavers. **At this time, the property owner asked to table the Variance application until a later date to bring back property information to the Board.**

SIXTH ORDER OF BUSINESS: APPLICANT: David Nelson 914 Pembina Trl Detroit Lakes, MN 56501 **Project Location:** 23282 Resort Rd Detroit Lakes, MN **LEGAL LAND DESCRIPTION:** Tax ID number: R191326001 Lake Melissa Fern Beach 5th Add Lots 5 and 6 Section 30, TWP 138, Range 41 Lake View Township **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a dwelling 14 feet from the road right of way from a public road and 27'6 feet from the road right of way of a second public road due to a substandard sized lot of record. This deviates from a 45 feet setback from the road right of way of public roads for a dwelling.

David and wife Deanna Nelson explained the application to the Board. The request is because of the setbacks required from two township roads that abut the property. The property is for sale, and the proposal is for a possible buyer. The substandard lot without a variance would be restricted to a much smaller structure. The previous cabins demolished off the property where located right by the shoreline. The request is not asking to go ahead of stringline. The road going down to the lake is rarely used. There are other cabins in that area that are located closer to the back road. The property used to be two smaller lots that were combined into one parcel. There is a well house located on the property that services four properties, there is an easement attached to the deeds.

No one spoke in favor of the application. Gail Hahn representing Lake View Township spoke against the application. The common road going down to the lake is for public use. It is a platted road corridor. The proposal request is too close to the road right of way area. The structure seems so large for such a small property. There were no letters of correspondence in the file. At this time, Testimony was closed.

Further discussion was held. The plan submitted is under 25% lot coverage. Chirpich stated it appears it will need a variance because of specific structure proposed. The setback request from the back road isn't too bad, but the request from the right of way of the road to the lake is so close. Spaeth stated without a variance, the property could have a dwelling on it, but it would be limited in size. Schutz suggested the property owners could revisit the building plans to better fit the structures onto the property. Sherlin stated a smaller dwelling could fit, when multiple requests are proposed you have to wonder if the structures proposed are too much for the property. It is a difficult request to grant

because the roads are public thoroughways. If it was an easement road, it could be built up to but not into, this access is for neighbors. The road could not be asked to vacate, this has been suggested before. Moore stated the plans seem too much dwelling for the property. The Board suggested if the garage would be detached, the garage and the dwelling could make the setback from the back road. The lakeside would be behind stringline and the lake setback shortcome could be mitigated through the Zoning Office. Pavelko agreed, but the motion shouldn't be up to the Board to move the structures or discuss dimensions to size down, this should be up to the owners. Chirpich stated the Board is bound by the 6 criteria for granting the Variance, not sure if the hardship could be looked at to grant the request because of specific dwelling plan to be placed on the property for a hopeful buyer. **At this time, the property owner asked to table the Variance application until a later date to bring back a different proposal to the Board.**

SEVENTH ORDER OF BUSINESS: APPLICANT: Orpha Poehls 20981 Co Rd 22 Detroit Lakes, MN 56501 **Project Location:** 20981 Co Rd 22 **LEGAL LAND DESCRIPTION:** Tax ID number: R170880000 Lake Eunice Langseth Beach Block 1 Lots 3 & 4; Section 27, TWP 138, Range 42. Lake Eunice Township **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a 24x24 garage addition onto an existing 14x20 storage shed located ahead of the established structure stringline and 44 ft from the Ordinary High Water Mark (OHW) of Lake Eunice due to the substandard size lot of record. This deviates from the requirement of structures being located behind the established structural stringline and the OWH setback for a General Development Lake (75 ft).

Orpha Poehls explained the application to the Board. Sherlin stepped down from the Board and out of the discussion because he is the owner of abutting property. The request is for a garage addition onto existing smaller garage on a substandard lot. The request is to vary from the County road right of way and the lake. The structure would be out of the shore impact zone area. They would fix the roof on the smaller shed. The smaller shed roof will be shorter than the bigger shed. There was a Variance approved in 2003 onto the existing dwelling structure, the proposal garage addition would not be going any closer to the lake.

No one spoke in favor of the applicaton. No one spoke against the application. There where no letters of correspondence in the file. At this time, testimony was closed.

Spaeth stated there could be added vegetation for runoff from the garage and existing dwelling at the shoreline in front of the structures. The structures could contain eaves, gutters, spouts and possible infiltration areas for runoff. The structure is proposed closer to the road right away, but the proposed drive into the new garage will be coming in sideways as to not back out onto the County road. Moore stated it seems too close to the road right of way to consider and the east side is already close to the well. But if the proposal is moved, then it will be constructed closer to the lake. If used as the primary residence, a garage in this area is a necessity and there is no other area to construct the

structure that could make the setbacks. Pavelko stated if the small shed was removed, a variance would still be needed no matter the size requested.

MOTION: Chirpich made the motion a Variance to construct a 24x24 garage addition onto an existing 14x20 storage shed be granted due to the substandard lot of record. All structures on the property are to be guttered with spouts away from the lake going toward road right of way area. French drains, berms or infiltration areas are to be implemented as part of a stormwater management plan to ensure the drainage goes away from the lake. Pavelko second. All in favor except Moore. Motion carried.

Informational Meeting. The next informational meeting is scheduled for Thursday, September 6th, 2007 at 7:00 a.m. at the Planning & Zoning Office.

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

Steve Spaeth,
Vice Chairman

ATTEST

Patricia Swenson, Zoning Administrator