

Becker County Board of Adjustments
September 13, 2007

Present: Members: Jim Bruflodt, Bill Sherlin, Al Chirpich, Steve Spaeth, Eugene Pavelko, Clifford (Kip) Moore and Jerry Schutz.

Zoning Staff: Administrator Patty Swenson and Julene Hodgson.

Chairman Jim Bruflodt called the meeting to order. Julene Hodgson took minutes.

Minute approval: The August minutes were discussed. Corrections in the Third and Seventh Order of Business Motion to read: A Variance be granted- not has been granted. Fourth Order of Business Motion to read: A Variance to be denied- not has been denied.

Pavelko made the motion to approve the corrected minutes from the August 9th, 2007 meeting. Chirpich second. All in favor. Motion carried.

Bruflodt explained the protocol for the meeting. Spaeth read the criteria for granting or denying a variance.

OLD BUSINESS:

- 1. FIRST ORDER OF BUSINESS: APPLICANT: Donald Wisk**, 813 Nicole Lane, Dilworth, MN, 56529. **Project Location:** 24320 Woodland Lane. **LEGAL LAND DESCRIPTION:** Tax ID number, R190784000; Lake Sallie; Aud Plat Lot 8, Section 08, TWP 138, Range 41; Lake View Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a detached accessory structure 15 ft from the right of way of a non-dedicated township road and 22 ft from the top of a bluff due to the topography of the parcel. This deviates from the 20 ft setback for a detached accessory structure from the right of way of a non-dedicated township road and 30 ft setback from the top of a bluff.

Applicant Donald Wisk explained the application to the Board. The proposal previously tabled would be for a 24 x 28 detached garage. The property is split by a Township Road. The property has a bluff area on the Lake Sallie side. Spaeth asked which way the roofline would be constructed. Wisk explained the entrance would be from west to east, the garage was turned as to not back into the road. The peaks would run north to south with the gutters running toward the road to minimize runoff. The structure has been downsized from what was originally proposed. The centerline pins were located for the road corridor to show the setback from the right of way, and the structure will be further back from the bluff in this proposed location. The proposal is the best suitable area for the structure on this unique property. Spaeth indicated the bluff area is starting to fail and would like to see the proposal to include the DNR and or the Pelican River Watershed to advise owner with plan for stabilization. Schutz recommended a possible berm toward bluff top area. Possible rip rap on lower area and bushes on the upper area to stabilize. Moore asked what the drive area would consist of. Wisk stated the drive area would remain grass. Wisk stated the cabin side driveway runs toward Lake Monson and a swale area with vegetative growth helps with the runoff from the driveway to the lake.

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. Spaeth stated the new proposal shows a lot of changes that address the road, the bluff and the structure runoff. The addition of a stipulation regarding a preservation plan being implemented for the bluff area would help address the bluff stability for the future. Al stated a berm and grade would help with runoff. The proposed garage will be on a slab. Sherlin stated it is hard to act on properties when asking for more than one setback to vary away from. It makes it seem that when asking for multiple variances, the proposal is possibly too much for the property. Chirpich asked if Wisk plans this to be a future year around residence and Wisk stated yes. Spaeth stated that anything done in the future on the Monson side would likely require a Variance also for reasonable use.

MOTION: Schutz made the motion a Variance be approved to construct a 24 x 28 detached accessory structure 15 ft from the road right of way and 22 ft from the top of a bluff due to the topography of the parcel. The access will be perpendicular to the road. No asphalt is to be added, it is to remain a grass drive area only. The property owner is to work with the Watershed District and follow the stormwater management plan implemented to protect the bluff area. Spaeth second. All in favor except Sherlin. Motion carried.

2. 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 detached accessory structure 15 ft from the right of way of a non-dedicated
Township Road, 69.5 (average) ft from the Ordinary High Water Mark (OHW) of
Monson Lake and ahead of stringline due to setback issues. This deviates from the
required setback of 20 ft from the right of way of a non-dedicated Township Road, a 100
feet setback from the lake and structures to be located behind stringline.

Wayne Henderson explained the application to the Board. The centerline pins were located for the road corridor. The previous request was for a 26x40 structure, but the new proposal showed the setback from the lake with a 26x40 structure or a 24x40 structure which would be located further back from the lake and the steep slope. Swenson indicated the Board could regulate the size to help regulate the lake setback as part of the Variance motion. Spaeth indicated the water runs toward the lake from the existing drive and would like to see some lakeside mitigation in front of the cabin area. Henderson stated he has sandy ground and the new garage would have gutters and spouts to help minimize runoff toward the lake. Wisk is a year around resident and has not seen any erosion areas on the property. Sherlin noted the property is under 15% impervious.

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. Chirpich stated the new proposal was easier to understand the project but the issue is still with the water that will be created by a roof area and the existing driveway even if the structure is guttered. Sherlin stated the proposal is still ahead of the stringline on the lakeside. Chirpich stated if the structure is downsized it will make the furthest setback it can from the lake and the road. It is similar to the previous request as a preferred suitable area for a unique piece of property.

MOTION: Chirpich made a motion a Variance be approved to construct a 24 x 40 detached accessory structure 15 ft from the road right of way due to setback issues. The access will be located entering the structure as to not back out directly onto the road. The property owner is to implement a stormwater management to control runoff to the lake and steep slope area. The non-permitted small shed located in the shore impact zone is to be removed. Spaeth second. All in favor except Sherlin. Motion carried.

NEW BUSINESS:

- 1. FIRST ORDER OF BUSINESS: APPLICANT: Larry Hanson** 2308 Willow Rd Fargo, ND 58102 **Project Location:** Rebne Acres / Brolin Beach **LEGAL LAND DESCRIPTION:** Tax ID number: R081227506 Floyd Lake Rebne Acres Lot 3 Block 2; Section 16, TWP 139, Range 41, Detroit Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a detached accessory structure 10 feet from the rear property line due to a substandard sized back lot located across the road from the lake. This deviates from the required 40 ft setback.

Vern Hanson spoke for applicant Larry Hanson. The property is located across the road from the applicants lake property. The property has nothing located on it at this time and eventually a dwelling will be constructed. The request for the garage to be located in the far corner of the property is because the property has the township road located on two sides of the property. The setbacks from both road areas severely limits where the structures could be located. Putting the garage in the far corner would help with the most reasonable use of the property. The structure would not be as visible if located in the proposed area. The neighbor plans on asking for a similar Variance, so his garage will be up against this garage to look more uniform on the properties. Swenson explained the opposite property line from where the drive comes into the property from the public road is considered the rear property line. Spaeth stated it is a hard property because depending on the driveway into the property, either property line could have a 40 foot rear setback or a 10 foot side setback.

Neighbor Scott McAllen spoke in favor of the application. McAllen stated it would be best located in the far corner for looks and use of the property. No one spoke against the application. There where no letters of correspondence in the file. At this time, testimony was closed.

Further discussion was held. Chirpich clarified the rear property line would be a 40 foot setback, the side a 10 foot setback and the setback from the road right of way would be 20 feet. Schutz asked if an asphalt driveway was proposed, the owner stated only a grass drive is proposed. Schutz stated there is plenty of property. Spaeth stated a structure will be visible no matter where it is placed on a corner lot. Sherlin stated both properties abutting this property have side property lines, not rear property lines to contend with. Any structures built on those properties would only have to abide by a 10 foot side property setback. Spaeth stated the structure will cause stormwater runoff to the neighboring properties and the owner should seek whatever measures needed to contain his runoff onto his own property with gutters, spouts and possible side berm.

MOTION: Spaeth made a motion a Variance be approved to construct a detached accessory structure 10 feet from the rear property line due to a substandard sized back lot. The structure size is not to exceed 15% of the buildable area. The owner will implement a stormwater management plan to contain water runoff onto their own property. Pavelko second. All in favor except Schutz. Motion carried.

- 2. SECOND ORDER OF BUSINESS: APPLICANT: Heidi Johnson** 12928 E Arrow Lake Rd Audubon, MN 56511 **Project Location:** 12928 E Arrow Lake Rd **LEGAL LAND DESCRIPTION:** Tax ID number: R170630000 Arrow Lake Blue Water Bay Block 3 Lots 8 and 9; Section 19, TWP 138, Range 42, Lake Eunice Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a 16x20 addition onto an existing non-conforming structure, proposing 121 feet from the ordinary high water mark of the lake and ahead of stringline due to a substandard sized lot of record. This deviates from the required 150 ft setback from the OWH of a NE lake and structures to be located behind the established stringline.

Heidi Johnson explained the application to the Board. Requesting an addition onto the existing dwelling on the lakeside. The sewer and garage are located in the back of the property. Spaeth stated there seemed to be ample room in the rear or side to locate an addition. Johnson stated this would take room away from the dogs kennel area. Schutz stated the north side of the home seemed like a good location for the addition. Johnson stated trees would have to be removed. Brufloft asked if she had looked at the plans for the east side of the property. Johnson stated that would also take away from the dog kennel area. Johnson explained the site plan for a spa area that is needed for a health condition.

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. Brufloft stated it is a large property with many potentials. Sherlin noted the current dwelling is already located ahead of neighboring stringline and closer to the lake than the required setback. He added this would be adding to the nonconformity of the existing dwelling to approve the location of the addition closer to the lake.

MOTION: Sherlin made the motion a Variance be denied due to an undemonstrated hardship of the property. It does not prevent reasonable use of the property. Chirpich second. All in favor. Motion carried.

- 3. THIRD ORDER OF BUSINESS: APPLICANT:**Dennis Olson 6443 13th Str N Fargo, ND 58102 **Project Location:** Eagle Lake **LEGAL LAND DESCRIPTION:** Tax ID number: R030503000 Eagle Lake Eagle Lake Park Lots 27-32 & Vacated Rd; Section 33, TWP 138, Range 40, Burlington Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct an addition and new deck onto an existing non-conforming structure proposing 36 feet from the ordinary high water mark of the lake, located in the shore impact zone area and ahead of stringline on a standard sized lot due to setback issues of the existing structure. This deviates from a 100' setback from the OWH of a RD lake, structures to be located out of the shore impact area and behind established stringline.

Dennis Olson and his son-in-law explained the application to the Board. The request is to replace an old part of the existing cabin built in the 1930's. The large property is a unique property with a hill to the rear. It would be difficult to remove any of the structure and move it back from the lake. Would like to replace with expansion going to the east. Swenson read the other Variance findings from the file. Chirpich noted the cabin had been previously added onto with a two story addition. Schutz had Olson explain structure plan proposed with the extra footage proposed. Schutz asked how large the deck would expand onto the new proposed addition.

The owner stated in front and on side to walk around. Sherlin asked confirmation of previously added addition and guest house. Swenson explained the additions were constructed before the lake properties were inspected and the permits were approved as proposed. The site plans submitted were approved with the setbacks that were stated on the paperwork. Bruflodt reminded the Board that the action tonight is based on the Variance request at hand, not what was or what was not done previously with the property. Schutz asked when the guest house was constructed. Swenson stated in June of 2000 a Variance was requested and denied for the size of guest cottage proposed. The guest house was constructed with a wood walkway connecting it to the main dwelling, that would not be permitted today. Chirpich stated the measurements taken show the dwelling to be in the shore impact area with the lot having plenty of options for relocation.

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. Schutz stated the structure is located close to the lake, adding a newer larger addition would add to the non-conformity of the property. Spaeth stated with the large lot area, there would be options for placing structures further back from the lake. Sherlin reminded the Board of previous applications that were denied when they were larger lots with a lot of back area. Moore stated he didn't think it would worsen anything by granting the Variance. Spaeth noted it would worsen an already bad situation in the shore impact area with the expansion of structures proposed.

MOTION: Spaeth made the motion a Variance be denied due to an undemonstrated hardship of the property. Sherlin second. All in favor except Moore. Motion carried.

4. FOURTH ORDER OF BUSINESS: APPLICANT: Keith & Diane Ketcher, 4200 Shady Oak Rd Minnetonka, MN 55345 Project Location: 24162 Co Hwy 48 LEGAL LAND DESCRIPTION: Tax ID number: R210181000 Straight Lake PT SE1/4 OF SE1/4: COMM SE COR; Section 20, TWP 140, Range 36, Osage Township. APPLICATION AND DESCRIPTION OF PROJECT: Request a Variance to construct a detached accessory structure 32x60 (1,920 sq ft) 144 feet from the ordinary high water mark of the lake due to the undemonstrated hardship of the property. This deviates from a 1200 sq ft size detached accessory structure allowed within 200 feet from the ordinary high watermark of the lake.

Keith and Diane explained the application to the Board. They are proposing a larger sized detached accessory structure within 200 feet of the lake to store their personal property. The shed wouldn't be visible due to the slope and trees.

No one spoke in favor of the application. Ron Buntrock, Daughter of Irene Raddly, Mariam Lemaitre, and Eileen Raddly all spoke in opposition of the Variance request. There were letters of correspondence in opposition in the file from Eileen Radley, Ronald Buntrock, Richard Schmitz, Doug Kingsley, Pam Niemi, Osage Environmental Assoc Inc. and Perry Gust. At this time, Testimony was closed.

Further discussion was held. Pavelko reminded the Board of previous Variance applications that were denied larger sized structures. The Board should be consistent. The Board discussed the size the owners could propose for the property.

MOTION: Spaeth made the motion a Variance be denied due to an undemonstrated hardship of the property. Schutz second. All in favor. Motion carried.

5. **FIFTH ORDER OF BUSINESS: APPLICANT: Wade & Julie Whitworth, 24239** co Hwy 22 Detroit Lakes, MN 56501 **Project Location:** 24239 Co Hwy 22
LEGAL LAND DESCRIPTION: Tax ID number: R191386703 Hidden Timbers Block 001 Lot 3; Section 20, TWP 138, Range 41, Lake View Township.
APPLICATION AND DESCRIPTION OF PROJECT: Request a Variance to re-divide substandard sized non-riparian lots, which are in contiguous ownership, for resale purposes due to an undemonstrated hardship of the property. This deviates from the Ordinance that states contiguous parcels in the same ownership shall remain as one buildable parcel of land.

Wade Whitworth explained the application to the Board. He stated he was told when he purchased the property he would have the option of selling off part of the property in the future. Upon sale to the neighbor, it would serve as a buffer for the neighbor to assure no one would build on that side of the property. Other lots in this subdivision are substandard lots. If the owner is denied the Variance, he might build a detached accessory structure on the property. Spaeth asked if the owner felt he could maintain the property as it is if the wooded area stays with his property, to which the owner answered yes. Dr Mickelson spoke in favor of the subdivision of the property. He would buy the property from Whitworth and leave natural. There is no lake impact and they are not asking property to be re-divided, the parcels use to stand as individual properties before contiguous ownership. Spaeth stated that once together, these properties are looked at as one buildable site and together they are a standard sized parcel. There is not enough area to make a lot line adjustment to take away some area and leave enough area to be a standard sized parcel.

No one spoke in favor of the application. No one spoke against the application. A letter from Letitia Lane in favor of the application was faxed into the office, but was not read at the hearing because the letter was received by fax after office hours. At this time, testimony was closed.

Further discussion was held. Spaeth stated the subdivision of the property would bring up other issues on the property, such as where the well is located. It would possibly have to be relocated. Brufloft stated a possible gentlemen's agreement between the owners would assure nothing constructed on the property, but that doesn't guarantee a future owner would not construct something on that side. Sherlin stated the criteria doesn't take into account individual owners, but at the hardship of the property. The property is a standard sized parcel, the request would create a substandard non-conforming parcel. Brufloft stated this would cut the property in half with total area.

MOTION: Chirpich made the motion a Variance be denied due to an undemonstrated hardship of the property. Sherlin second. All in favor. Motion carried.

6. **SIXTH ORDER OF BUSINESS: APPLICANT: Dale Geritz, 40335 Little Toad Road** Frazee, MN 56544 **Project Location:** 40335 Little Toad Rd **LEGAL LAND DESCRIPTION:** Tax ID number: R150236000 Little Toad Lake Pt Lot 2 Beg 68.47 E of SE Cor Lot 10 Goranson Beach; Section 24, TWP 139, Range 39, Height of Land Township.

APPLICATION AND DESCRIPTION OF PROJECT: Request a Variance to allow 42 boatlifts to remain as a centralized docking system in an existing campground due to an undemonstrated hardship of the property. This deviates from 10 mooring sites and 15 boatlifts that would be allowed for a campground. (A maximum of one mooring space per allowable unit/site or 25 lineal feet of shoreline, whichever is most restrictive, may be provided for continuous mooring of watercraft at existing licensed resorts, RV parks and campgrounds abutting Public Waters. Centralization of docking and mooring spaces is recommended. Additional mooring spaces/lifts may be allowed by variance with an approved centralized docking system. Boatlifts may be allowed and will be equal to 1.5 times a mooring space calculated.)

Dale Geritz explained the application to the Board. Swenson explained the Variance can be more liberal with resorts. Prior dockage has never been enforced, except for new resorts. An inspection was conducted showing the existing resort was exceeding the dockage limits. Only in the last 5 years has the dockage been looked at as a part of resorts. This is the 1st resort to appeal and ask for a variance. Resorts are looked at differently than MURDs, there is more flexibility. There is currently no state or county enforcement. In 1999 centralized docking areas were started and preferred. Neighbors are in favor. The public access would be overloaded. Spaeth stated most of the owners lake frontage is covered. Brufloft stated the traffic is heavy on this lake whether the people dock their boats or use the public access. Geritz stated the people of the resort own the docking area.

Larry Knutson speaking on behalf of the Height of Land Town Board spoke in favor of the application. Jim Navara and Elroy Ackerman spoke against the application. There were letters of correspondence in the file that were read to the Board. They included letters from Little Toad Lake Association Officers and property owners, John and Diane King, Jeff Bulger, Cory Saba, Bill Purdy, George Maher, and a signed petition by property owners. At this time, testimony was closed.

Further discussion was held. Brufloft stated it was not so much the request for the variance, but the guidance needed on what to allow. What should be granted and how to come up with a number. Spaeth stated if the landing is used more, it will become overloaded with boats and trailers. Swenson suggested the DNR be consulted for opinions. Pavelko stated if the variance was denied, the property would only have 10/15 if approved, does it set precedents for the 42 that already exist to remain. Spaeth stated it is a lot to determine, the property has a funnel development look to it. Schutz asked if the Board acted on this request if something could be revisited by a new request in the future. Pavelko agreed with Swenson that more information should be taken into consideration. Schutz agreed the lake will be busy no matter what and the marina look of the docking system in place is a clean way to maintain traffic in a specific area. The ordinance was discussed by the Board. At this time Brufloft explained to the applicant he could table the application to gather more information for the Board.

At this time, the property owner asked to table the Variance application until a later date to bring back more information to the Board.

7. SEVENTH ORDER OF BUSINESS:APPLICANT: Thomas Pearson, 48194 Old River Bluff Rd St Peter, MN 56082 Project Location: 38594 Ada Beach Road Waubun, MN 56589 LEGAL LAND DESCRIPTION: Tax ID number: R090081000 Big Elbow Lake Pt Govt Lot 8 Beg 1141.61 W and 323.5 NW of E 1/4; Section 12, TWP 142, Range 39, Eagle View Township. APPLICATION AND DESCRIPTION OF PROJECT: Request a Variance to construct two additions and change the roofline of an existing non-conforming dwelling located ahead of the established structural stringline and 61 feet from the ordinary high water mark of the lake on a standard sized parcel due to setback issues of the existing dwelling. This deviates from structures to be located behind the established stringline on a standard sized parcel.

Thomas and Maureen Pearson explained the application to the Board. They are requesting an addition onto the existing dwelling to have a year around dwelling. They have a large parcel and are ahead of the neighboring structures by only a few feet. They have kept most of their shoreline natural. The roof would be constructed so the water runoff would be away from the lake. The Board addressed the structure plans. The footprint of the original house will stay the same with a roofline change. Chirpich noted nothing will be constructed closer to the lake. Moore stated to the Board the whole structure will be located out of the shore impact area.

No one spoke in favor of the application. No one spoke against the application. There where letters of correspondence on file that where read to the Board from Mary Turner on behalf of Eagle View Township, Chery Taylor, Bob Ramstad, Arnold Koch, Kenneth Larson and William and Cheryl Taylor. At this time, testimony was closed.

Further discussion was held. The owners have a large property, but are in front of the Board because of only a few feet. The request would not impact the lake area, but any future structure should meet the setbacks.

MOTION: Spaeth made the motion a Variance be approved to construct two additions and change the roofline onto a non-conforming dwelling due to setback issues. If the dwelling becomes destroyed by fire or other peril, application for a new dwelling must meet all setbacks on the property. Moore second. All in favor. Motion carried.

8. EIGHT ORDER OF BUSINESS: APPLICANT: Ross Kasowski, 10590 Co Hwy 29 Frazee, MN 56544 Project Location: 10590 Co Hwy 29 LEGAL LAND DESCRIPTION: Tax ID number: R030366001 PT SE 1/4 of NW 1/4 Kyng Sly and SWLY of US Hwy 10; Section 34, TWP 138, Range 40, Burlington Township. APPLICATION AND DESCRIPTION OF PROJECT: Request a Variance for a deck and steps constructed without a permit to remain on an existing dwelling at 68 feet from a State Hwy Right of Way due to an undemonstrated hardship of the property. This is an after the fact request that deviates from an 85 feet structural setback from a State Hwy Right of Way.

Ross and Dawn Kasowski explained the application to the Board. They wish the Board to grant a Variance for an after the fact deck to remain. They where denied by the Zoning office to construct the deck because it would not make the setback from the existing state road. They placed a patio door in the home and constructed the deck anyway. They felt the deck was in a good place, on the backside of the home, out of the sun.

Sherlin verified the fact that the house was not constructed with the intent of a deck being constructed on that side, the patio doors and the deck where an after the fact thought. Chirpich stated they could have a 4 x 6 landing to gain access out of the home. They could also wrap the larger deck around to one side. Kasowski stated the property is bordered by both a county road and the state road.

Merle Sherman spoke in behalf of the applicants. No one spoke against the application. Letters of correspondence on file where read from Edith, Marie and Alan Dretsch and David and Robin Burkel Jr. At this time testimony was closed.

Further discussion was held. Chirpich stated if the applicants came before the Board with the request before the deck was built, they would still have to look at the criteria of granting a variance. Schutz noted he would have suggested a landing out with a wrap around deck. Spaeth stated this is a large property, where is the hardship. Bruflo dt took into account the newer dwelling could have been placed back further at the time of construction to accommodate a future deck. Moore stated although the parcel is odd shaped, there is plenty of property. He doesn't see as dangerous situation, but obvious the owners where denied to do the construction and did it anyway. The owners stated they where told previously by the Zoning office they could have applied for a Variance to see if the deck could be constructed where it is currently at. A letter was received from the office stating the non-permitted deck would have to be removed, they didn't realize the impact.

MOTION: Spaeth made the motion a Variance be denied due to an undemonstrated hardship of the property. Chirpich second. All in favor except Moore and Pavelko. Motion carried.

Informational Meeting. The next informational meeting is scheduled for Thursday, October 4th, 2007 at 7:00 a.m. at the Planning & Zoning Office.

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

Jim Bruflo dt,
Chairman

ATTEST

Patricia Swenson, Zoning Administrator