

Becker County Board of Adjustments
November 8, 2007

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

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

Minute approval: The October minutes were discussed.
Schutz made the motion to approve the minutes from the October 11th, 2007 meeting. Chirpich second. All in favor. Motion carried.

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

OLD BUSINESS:

1. **FIRST ORDER OF BUSINESS: 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: PREVIOUSLY TABLED FROM SEPTEMBER 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. The application was tabled from the September hearing. Geritz requested the 42 existing boatlifts/central docking to remain. He has concern of congestion at the public access. Some of the clientele have rumored to leave if they lose their boat lift area, which Geritz stated would financially hurt his business. Geritz asked the Board to be reasonable in their decision and if the numbers are cut, to give him a time frame of when this is to happen. Chairman Brufloft asked if any further information was gathered for the hearing to which Geritz answered no further new information was available. Sherlin asked if all 72 permitted units were filled, to which Geritz answered yes, they were all seasonally rented with no short term rentals. Geritz gives permission for any structural improvements within the units and he stated he has never had any other agencies approvals or any permits. They have family oriented events and there are no other employees. Geritz stated the docking has been located there since 1996, they haven't added any, but added some footage to the docking.

John King from the Height of Land Township Board spoke in favor of the application. He also felt this would cause too much congestion at the public access area. John Postovit Cola Representative and a member of the Zoning Advisory Committee spoke against the application. The Ordinance provisions before 1996 would have allowed 4 boatlifts, the existing resort was already in violation. Postovit stated the request to the BOA seems a request to make wrongful decisions.

He urged the Board to uphold the intent and wording of the Ordinance to deny the request. Spaeth asked about section 7 and the division into the 3 areas. Moore asked when the amendments were passed to which Postovit stated 2005. James Navara on behalf of the Little Toad Lake Association spoke against the application. He had signatures from 28 members in protest. They questioned safety issues. Schutz asked the number of parking spaces at the public access, Navara thought there was 12. Chirpich stated the use of the lake will not be diminished, owners will find another access onto the lake. Navara stated there were 52 members on the Little Toad Lake Association. Bob Merritt from the DNR spoke against the application. Merritt stated although this has not been enforced in the past, the docks do require permits and have never been permitted. He presented information to the Board with a picture from 2001 that does not show the central docking system. He was under the understanding they were there since the mid 90's. Merritt felt the hardship to the property owner would only be financial. Other existing resorts do not have this large of an area. The property is unique to the area. It is the public's right to use the public access, but not their right to use so much area on public waters. Only riparian owners should have access rights, this is beyond the bounds of what is seen in general. Merritt urged the Board to look at the Variance Proceedings and Ordinance to what is allowed to remain. The Ordinance does not allow back lot areas to have access to the lake to cause this funnel effect. Spaeth repeated the property is unique because of the back acreage. Merritt stated if this resort area was converted to a condo setting, this many boatlifts would not be allowed. Larry Knutson spoke in favor of the application. The intent of the Ordinance was to take these unique circumstances into account. Swenson stated there were currently provisions for conversion and the statement exists for the Variance process to look at these requests individually for existing resorts. Swenson stated the intent maybe misconstrued if the Committee stated there could only be 1 for every 25 feet of shoreline, they would not have added the statement they could request a Variance. County wide, there will be more of these to look at. The request to table the application could be requested by the owner. At this time, testimony was closed.

Further discussion was held. Brufloft stated the Board wants to be pro resorts. But felt the Board needs something more concrete in the mooring/docking area. The Board looked at the existing 42 to be excessive. The Board talked of choosing a lower number and giving the owner a time frame to come into compliance. The current central docking is owned by the people, not the property owner, how does he choose who keeps theirs. Chirpich wondered if stipulation could be added to any Variance with future changes if a better formula is brought up. Spaeth, Sherlin and Schutz disagreed, stating there is already a formula in place. If the owner is not to table the application, they are to act on the request this evening. Sherlin stated he felt there was no hardship for the request. Moore stated the owner stated the docks were placed there before the current formula. The previous formula would have allowed 4. Swenson read the current formula from section 7C. Schutz asked how the existing 42 were placed on the water without previous knowledge. Swenson stated they were made aware of through complaints and field work. DNR shoreland standards were in place, but they also were unaware this happened. Resorts were evaluated if improvements were requested. Schutz reaffirmed that prior to 2005, docking was not looked at. The County was notified June 2007. Sherlin stated he looks at this existing resort as more of a permanent residential development because of the definition of a resort being temporary vacationers. The Ordinance was not intended for seasonal type of ownership. The process is

there, but hard to come up with arbitrary number. Schutz stated if this resort is non-compliant, does our decision mean we have to look at all existing resorts. Chirpich stated either way the decision will impact other resorts. Spaeth stated this resort is more long term, doesn't necessarily meet the criteria for a resort. It should be looked at differently in the Ordinance and Zoning.

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

- 2. SECOND ORDER OF BUSINESS: Orpha Poehls, 20981 Co Rd 22, Detroit Lakes, MN 56501 Project Location: 20981 Co Rd 22 LEGAL LAND DESCRIPTION:** Tax ID number: R 170879000 and 170880000 Lake Eunice Langseth Beach Block 1 Lots 3 & 4; Section 27, TWP 138, Range 42.Lake Eunice Township **APPLICATION AND DESCRIPTION OF PROJECT: AMMENDMENT TO AUGUST HEARING An amendment to the previous Variance request** to construct a 24x24 garage addition onto a **reconstructed** 14x20 storage shed located ahead of the established structure stringline, 44 ft from the Ordinary High Water Mark (OHW) of Lake Eunice **and 39 ft from the center line of the County Rd** due to the substandard size lot of record. This deviates from the requirement of structures being located behind the established structural stringline , the OHW setback for a General Development Lake (75 ft) and 78 feet from the center line of this County Rd area.

Sherlin stepped down from the Board as he owns neighboring property.

Orpha Poehls and contractor Gary Meyer explained the application to the Board. The existing smaller shed was damaged by a windstorm. Large oak trees hit one corner of the structure damaging the shed further when the stump was removed. Pavelko expressed he specifically asked if the small shed was going to be kept, with the larger garage attached to the existing. The contractor and owner admitted they answered yes and they only intended to put a new roof on the existing. Schutz asked if they realized once the Variance was granted, they would have to ask if anything different was proposed. The owner and contractor stated no.

No one spoke in favor of the application. No one spoke against the application. There was a letter of correspondence in opposition read by Swenson from the Lake Eunice Association for the file. At this time, Testimony was closed.

Further discussion was held. Spaeth stated again everyone deserves a garage, which was approved by the previous variance. He couldn't see a hardship to approve to replace the smaller shed. Spaeth and Chirpich agreed the lot is small and a unique shape. Both the garage and the shed requested do not make the lake or road setback. Brufloft questioned what location would benefit the lake. Spaeth stated the first variance was approved to attach the larger garage to the existing garage, now the larger garage should be free standing. Chirpich stated to replace a nonconforming structure that was destroyed, it would have required an approved Variance. Brufloft stated that once the nonconforming structure is gone, it is gone. The Board stated a lot of substandard sized lakeshore lots do not have a reasonable sized garage because of setback and lot coverage issues, the approved garage was of reasonable size.

MOTION: Spaeth made the motion a Variance be granted to construct a 24x24

detached garage no closer to the lake than the existing dwelling due to the substandard lot of record.

Chirpich second. All in favor except Moore. Motion carried.

NEW BUSINESS:

1. **FIRST ORDER OF BUSINESS: Kevin & Cynthia Hansen** 15888 7th Str SE Hillsboro, ND 58045 **Project Location:** 37079 Co Hwy 35 **LEGAL LAND DESCRIPTION:** Tax ID number: R090102000 Big Elbow Lake N 100' of S 450' of Lot 2 Section 13, TWP 142, Range 39 Eagle View Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a deck onto an existing dwelling located in the bluff impact zone due to existing setback issues and the topography of the parcel.

Kevin and Cynthia explained the application to the Board. The original cabin has the approximate year built of 1949 with updates and new construction approved in 2005. The foot traffic out of the sliding door area is causing erosion and the proposal would actually protect the bluff from the traffic. The parcel is wooded with the shoreline remaining natural. The proposed posts would not disturb the area and would be up on blocks. Soil and Water representative stated the owners are good stewards of the lake. The deck would be made of pervious material. The original ice berm is still intact along the shoreline below the bluff area. Pavelko asked when the current owners purchased the property. The owners questioned, but thought 2001 or 2002. Chirpich questioned how far the proposed deck would extend over the bluff area. The owners weren't sure of how many feet it would extend over the bluff area toward the lake or beyond the cabin. They thought it would be approximately 12 feet over the bluff and 91 feet from the ordinary high water mark of the lake. The cabin sits slightly at an angle and overlooks the neighboring parcel. If the deck was constructed parallel to the cabin the view would be limited. The proposal would allow shade. Spaeth said he would recommend keeping the proposed deck from extending over the bluff. Schutz commended the owners on the lakeshore area.

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

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

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

Jim Brufloft,
Chairman

ATTEST

Patricia Swenson, Zoning Administrator

