

Becker County Board of Adjustments
November 13, 2008

Present: Members: Bill Sherlin, Merle Earley, Jim Brufloft, Steve Spaeth, 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. Spaeth made the motion to approve the minutes from the October 9th, 2008 meeting. Sherlin second. All in favor. Motion carried.

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

OLD BUSINESS:

1. **TABLED APPLICANT APPLICANT:** Elizabeth Susan Dodd 3944 E Keresan Str Phoenix, AZ 85044 **Project Location:** 23863 Co Hwy 22 **LEGAL LAND DESCRIPTION:** Tax ID number: R191810000 Melissa Lake Shoreham 138 41 Lot 7 Block 8; Section 19, TWP 138, Range 41, Lake View Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a dwelling with an attached garage 16.5 ft from the road right of way of County Hwy 22 due to a substandard lot of record. This deviates from the standard setback of 45 ft from the right of way.

Contractor Dan Smith and Timothy Dodd, brother of the applicant, explained the application to the Board. Smith noted that stakes were placed defining the proposed dwelling. The septic issue has been resolved. A letter in the file is granting non-exclusive appurtenant easement for the existing septic system pending a survey prepared to describe the easement area. The Variance request is for the NW corner to be approximately 16 ½ ft from the road ROW. Spaeth questioned the hardship of the property to grant such a Variance. Smith stated the existing lot is non-conforming with a main dwelling and a guest cabin located on it. The guest cabin is partially located on the neighbors' property. The proposed dwelling will be smaller than the existing square footage of both existing dwellings. Sherlin stated if using the stringline method the structure would have to be dimensionally and visually within the approved area. Smith stated the back porch area is ahead of stringline and the garage entrance is on the other side of the porch area and further away from the existing road. Sherlin noted the structures along this area that are closest to the road are detached garages, not dwellings with attached garages. Schutz asked if they could flip the deck to the other side of the structure, it might gain some footage at the rear of the property, or possibly downsize it altogether. Smith stated the existing survey from Meadowland is the correct measurements for the property, the neighbor had a different survey of his property given to him at the time he purchased the property. There was no judgment recorded regarding a new legal description.

No one spoke in favor of the application. Carl Malstrom was present representing the Gokey's next door to the Dodd's. He stated they have no position one way or the other regarding the application, but wants to address the boundary lines. They feel they have ownership rights to the boundary lines in question. Lake View Township Supervisor Gail Hahn stated the proposed request places the dwelling too close to the road and other structures along the Co Rd corridor are

storage sheds, not dwellings.

She noted concerns regarding the owner not having the room to turn around and therefore backing out into traffic. There was a letter in the file in favor of the application from Lilly Kenney that the Board members received earlier. Swenson read the letter on file regarding the septic. At this time, testimony was closed.

Further discussion was held by the Board. Brufloft stated although visual stringline is not feasible at this time due to the current structures being in the way, mathematically the proposal is ahead of stringline on the roadside. Sherlin stated the proposal is close to the road for a dwelling, possibly a change of footprint should be required to meet more setbacks. Spaeth stated there are other possibilities for the property that would not require a Variance. Schutz stated they should not allow less than a 20 feet setback from the road ROW for any part of the structure, there are alternatives for reasonable development on the property. The stringline method can include the decks, the dwelling and deck could be located closer on the lakeside and meet setback regulations with mitigation. Brufloft stated there is no hardship to grant a Variance if the structure can be placed to meet setback requirements. Brufloft explained to the applicants they have the option to table the application until further information can be presented to the Board or different alternatives are pursued. **At this time, the property owner requested to table the Variance application until a later date.**

NEW BUSINESS:

1. **APPLICANT:** Justin Ehlert 733 20th St N Fargo, ND 58102 **Project Location:** 17433 Bijou Circle **LEGAL LAND DESCRIPTION:** Tax ID number: R180286000 Bijou Heights 139 43 Block 1 All of Lot 54 and half of Lot 53; Section 29, TWP 139, Range 43, Lake Park Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a used manufactured home 25 feet from the road right of way of a township rd and 85 feet from the ordinary high water mark of the lake due to a substandard lot of record that is located on a peninsula. This deviates from a dwelling 45 ft from the ROW of a township rd and 100 ft from the OHW of a recreational development lake.

Property owner Justin Ehlert and father Gary Ehlert explained the application to the Board. The proposal is to replace an old mobile home with a newer dwelling. The property is a peninsula with the closest point to the lake going across Gary's property. The new dwelling will not go any closer to the lake and will go 8ft closer toward the property pins. There is a large restricted drive area in the back of the lot before the actual public road. Gary stated the land drops from the road to the lake, this is reasonable use and best placement for a dwelling structure on the property to not cause drainage problems.

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. Brufloft stated this was a reasonable request due to the topography and shape of the property, but everything from the road area drains toward the lake due to a low area on the northwest side of the property. The request of 25' from the property pins is then a measurement of 75' from the center line of the existing public road. Spaeth showed the pictures of the low area of drainage concern to the land owners. A berm area would be required at least 1 ft high with sod/grass in the low area to control runoff to the lake. The shoreline has maintained natural vegetative cover.

Moore stated the septic information has not been submitted into the Zoning office to date, Swenson stated the information will have to be submitted into the office before a site permit can be released for the mobile home.

MOTION: Sherlin made a motion to grant a Variance for a manufactured home to be located 25 ft from the road right of way of a township rd and 85 ft from the OHW of the lake due to the topography and a substandard sized lot of record. Stormwater management must be implemented by adding a berm with a 12" rise and 4:1 slope along the N/W portion of the lot to control runoff to the lake.

Schutz second. All in favor. Motion carried.

2. **APPLICANT:** Bryan and Elizabeth Wetli 534 Sunset Dr Oxbow, ND 58047 **Project Location:** 12825 Kohler Lane **LEGAL LAND DESCRIPTION:** Tax ID number: R170611000 & R170612000 Big Cormorant Blue Water Bay lots 18 & 19 Block 2 Section 19, TWP 138, Range 42 Lake Eunice Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a 28x36 detached garage 54 ft from the Ordinary High Water mark of a low bay area that is a part of bluewater bay area due to wetland/topography issues. This deviates from a 100 ft setback from the OHW of the lake.

Bryan Wetli explained the application to the Board. Wetli stated he looked at all options for placement of a garage and the request is due to the small bay area located on the property and the location of the existing septic system. The proposal would place the garage as far as possible from the main lake. The challenge is the way the property was platted, with the small bay being a part of Blue Water Bay and it takes up most of Lot 18. Wetli purchased Lot 19 and then Lot 18, they are contiguous, in the same ownership and are one buildable property. Wetli will enter the garage with the doors facing the public road. Moore stated there was a previous Variance in place for Lot 18 that would allow a 24x24 structure, but it would be located closer to the lake. Spaeth asked Swenson if they approve this Variance request, could they rescind the previous Variance from 1981, to which Swenson stated yes.

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 agreed the previous Variance would go closer to the lake, this proposal would locate the garage closer to the road and out of the shore impact area of the bay. Spaeth stated the existing driveway is close to the bay and should be relocated to go directly into the garage instead of curve into the entrance. Sherlin suggested the owner could relocate the driveway and restore the area with a berm and vegetation. With the topography of the property there is adequate evidence of a hardship for the request for reasonable use. The small shed on the property should be removed because it is currently located in the road right of way.

MOTION: Schutz made the motion to grant a Variance to construct a 28x36 detached garage 54 ft from the OHW of the bay due to topography issues. Stipulations include: Document # 323880 Variance dated 11/04/81 is rescinded/null/void, removal of the shed located in the road right of way, relocation of the driveway to be directly off the public road into the garage and restoration of the current driveway with vegetation and a berm with a 12" rise and 4:1 slope to control runoff to the lake. Spaeth second. All in favor. Motion carried.

3. **APPLICANT:** Darwin Leach 405 5th St NW **Project Location:** 15511 Buckhorn Rd Lake Park, MN 56554 **LEGAL LAND DESCRIPTION:** Tax ID number: R170638803 Leaf Lake Lot 4 Buckhorn Section 06, TWP 138, Range 42 Lake Eunice Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a detached accessory structure 57 feet from the ordinary high water mark of the lake due to the parcel located on a peninsula. This deviates from a 100 ft setback for a structure on a recreational development lake.

Contractor Bruce Seim and property owner Darwin Leach explained the application to the Board. The property is a peninsula with topography issues. A site visit was conducted earlier May with the owner proposing to turn the deck into a 3 season porch. The Variance in place on the property would allow this because it would not go closer to the lake. At the time of the visit, the contractor, owner and inspector spoke of a future detached garage for the property. Because of topography issues, the best placement for the structure would be on the hill, toward the road right of way. The paperwork was filled out with the permit released for the property. When the construction began, and leaf off conditions occurred, the structure was closer to the ordinary high water mark on the opposite shoreline of the dwelling than the previous Variance on the property allowed at 80ft. The Watershed measured the concrete to be 57 ft from the OHW and out of the shore impact area. The Watershed stated they did not have a problem with the structure located where it is going to be constructed due to the topography of the property, this would be best placement. They suggested french drain areas to control stormwater runoff. With leaf on conditions, the structure will not be visible from the lake. With the dwelling located in the middle of the hill area, and the septic located below this and closer to the lake on the peninsula, this is the only place feasible for the garage. Leach stated one of the smaller sheds located in the shore impact area will be removed from the property. Earley stated the property area was larger when first platted and the water surface has encroached into the property.

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.

Futher discussion was held by the Board. Schutz stated the owner thought he was within the letter of the law with good intentions. The removal of the two sheds out of the shore impact area and mitigation for stormwater runnoff would benefit the property. Moore stated he didn't like the fact that the Watershed would not put their comments in writing for the Board. Spaeth noted the hardship was caused by someone other than the landowner and there will be definite runoff issues due to the trees being removed. Sherlin stated if there are multiple requests for Variances on a single property, maybe it means this is too much for the property. Bruflodt stated the Board looks at the hardship of the property, backs the County personal and can put stipulations on Variances that are approved. Early stated he would like to add the stipulation the two sheds are required to be removed or relocated elsewhere on the property.

MOTION: Sherlin made the motion to grant a Variance to construct a detached garage on the N/W side of the property 57 ft from the OHW mark of the lake due to topography and the shape of the property. Stipulations include: Removal of the two small sheds located in the shore impact area or relocation outside the shore impact area and stormwater management implemented around the entire detached garage area to control runoff to the lake. Spaeth second. All in favor. Motion carried.

Informational Meeting. The next informational meeting is scheduled for Thursday, December 4th, 2008 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. Sherlin second. All in favor. Motion carried.

Jim Brufloft,
Chairman

ATTEST

Patricia Swenson, Zoning Administrator