

**Becker County Board of Adjustments
September 9, 2010**

Present: Members: Chairman Jim Bruflodt, Steve Spaeth, Al Chirpich, Kip Moore, Jerry Schutz and Lee Kessler and Bill Sherlin.
Zoning Staff: Julene Hodgson

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

Minute approval: The August minutes were discussed. Schutz made a motion to approve the minutes from August 12, 2010 with no changes. Spaeth second. All in favor. Motion carried.

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

OLD BUSINESS:

None.

NEW BUSINESS:

1. **1. APPLICANT: Ronald and Janice Huesman** PO Box 305 Pelican Rapids, MN 56572 **Project Location:** 19721 Morton Oak Ln Beach Rd **LEGAL LAND DESCRIPTION:** Tax ID number: R171011000 Maud Morton Oak Lane Beach 3rd Lot 7; Section 21, TWP 138, Range 42, Lake Eunice Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct an attached garage and addition onto the rear of an existing structure located ahead of neighboring structural stringline due to the substandard sized lot of record. This deviates from structures to be located equal to or behind neighboring structural stringline.

Ronald Huesman explained the application to the Board. The request is to construct a garage onto the back of the existing cabin. Bruflodt noted the existing cabin is ahead of stringline, but located out of the shore impact zone area. Ronald added there would be a small area and walkway added to the side of the existing house which would enclose an existing side deck area. Ronald constructed the dwelling himself in 1963 before zoning regulations. Spaeth noted the plan proposed stormwater management by adding french drains/infiltration areas for roof runoff. Ron stated he will install what is needed/required for water management as far as infiltration areas and possibly a rain garden area. Spaeth also noted the vegetation buffers drawn on the proposal to which Ron stated he has already began implementation of buffers along the shoreline and plans on adding more into the areas until they are established and only a small walkway will go down to the lake. Ron stated he will remove the firepit area and landing/deck that is close to the lake.

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

Further discussion was held by the Board. Spaeth noted it was a good proposal with runoff issues addressed, shoreland protection with vegetative buffers and removal within the shore impact area. The request is not an exceptionally large garage. Sherlin noted this is a good example or when regulations are put in place well after the dwelling was constructed and the structure is still in good shape but too close by today's standards. Sherlin also stated that all mitigation proposed is to be implemented to stop/slow the runoff from the road going toward the lake. Chirpich stated that it is not an unusual request to ask for a garage on a property when it is going to be a primary residence.

MOTION: Chirpich made a motion a Variance be approved as requested and as submitted with mitigation implemented and the removal of the fire pit area and deck as stated by the owner due to a

substandard lot of record and setback issues of the existing structure. Kessler Second. All in Favor. Motion carried for approval.

2. **APPLICANT: Larry & Jackie Ibach** 1408 4th Ave E, West Fargo, ND 58078 **Project Location:** 16052 Saign Lane **LEGAL LAND DESCRIPTION:** Tax ID number: R020288000 Little Cormorant Blackhawk Mtn Beach 1st Bl 3 Lot 1/2; Section 32, TWP 139, Range 42, Audubon Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a detached garage 10 feet from the road right of way and 50 feet from the ordinary high water mark of the lake, due to the shape of the lot, wetlands and a substandard sized lot of record. This deviates from a detached garage required to be 20 feet from the road right of way and a 100 ft required lake setback.

Jackie Ibach explained the application to the Board. They would like a garage on the property because this is going to become their year around residence. Spaeth noted the proposal states the existing garage currently located within the shore impact zone will be removed from the property to which Jackie stated that is correct. Chirpich asked if the infiltration areas around the current dwelling were implemented/built by a professional, to which Jackie stated yes. Chirpich noted the day of the tour the spouts where turned/placed so they were going over the rocking area and not into them to utilize the areas. Jackie stated they would correct the direction of water flow into the rocking areas. Schutz asked where they would enter into the garage to which Jackie answered they would do a u-turn and go into the side of the garage- backing out onto their property before going onto the road. Moore asked if the existing parking area will be expanded to which Jackie answered no- the existing is going to remain the same size with no expansion to ensure the property stays under the 25% coverage. Chirpich asked if the property has been surveyed to which Jackie stated yes the stakes are identified on the property. Schutz noted with the shape of the lot, mitigation implemented for runoff, with the shoreline area to remain natural and the removal of the existing garage, the proposal seems reasonable. Chirpich noted they have allowed garages on year around residences and there seems to be no other feasible place to construct a garage that would be out of the shore impact zone and at least 10 feet from the road right of way area.

No one spoke in favor of the application. Audubon Township members Sean Felker and Richard (Rick) Ellsworth spoke against the application. Ellsworth stated the stakes are closer to the road surface than 10 feet. The corner of building closest to the lake would be 38' from the waters edge which would mean the ordinary high water mark is 12' out into the water. Ellsworth stated the need for a garage should have been addressed at the previous variance request when the dwelling was approved. Ellsworth stated the Township does not agree with structures being constructed so close to road areas due to the liability if they were to damage a structure during maintenance of the roads. Chirpich stated the road is not necessarily in the middle of the road corridor and is probably closer to the owners property than it should be. Chirpich stated this parcel has lowland area, but the lake does have a slow outlet area. Kessler asked if Zoning has verified where all the property pins are located and suggests the owner have them well marked to verify before something is constructed. The Board stated there was a letter in the file from Audubon Township in favor of the application at the time the dwelling was constructed. Ellsworth stated they did not have a problem with that because the dwelling is on higher ground and further away from the lake and road surface. Chipich asked if the Township maintains the road, to which Felker stated he believed they did not. Chirpich asked if the Township has ever placed gravel on the road to which they did not know if they have. Sherlin stated he understood the water and wetland issue, but the road can never be moved and it is what it is with very minimal traffic. The Board must look at the application in front of them for the hardship of the properties and reasonable use. Spaeth asked if the Township would ever maintain a 20' wide driveway to which they both stated no- the road would have to be brought up to specs and be an accepted road. Spaeth stated the consideration of the removal of the existing garage is a good trade. Brufloft stated the Board does not always look at the future thoughts and plans of a home owner, they look at the applications that are in front of them and that is why this was not brought up at the time of the dwelling request and reminded the Township that they did not have a problem with the property/request at that time. Brufloft stated the Board is more concerned on protecting the lake than the road that is not maintained. Chirpich stated they look at reasonable for each request for a lot of record. Chirpich asked if the Township has ever thought of abandoning the road to which they answered no. The Board let Jackie answer some of the questions of concern. Jackie stated the Township has not maintained the road for over 28 years, with no

snow removal or gravel added. They did not bring a garage as part of the previous request because they could not afford a garage at that time. They are going to make this a permanent residence and feel this is a reasonable request for a garage. The request is the only place it can be constructed to not encroach closer to the lake, shoreland vegetation or road areas. There were no further letters of correspondence on file for or against the application. At this time, testimony was closed.

Further discussion was held by the Board. Schutz stated he has not changed his mind and the proposal with mitigation and removal seems like a reasonable request. Moore stated the property owner must locate and flag where the property pins are to verify the measurements as proposed before construction begins. Kessler reminded the owner to correct the downspout issues. Sherlin stated because of the shape of the lot and wetland issues it appears this would be best placement for the property.

MOTION: Schutz made a motion to approve a variance to construct a detached garage with mitigation implemented as proposed, removal of the old garage located in the shore impact zone, natural vegetation to remain along the shoreline of the property and the property pins with measurement to the new construction verified before construction begins. The request is approved due to a substandard lot of record, the shape of the lot, reasonable use and wetlands. Spaeth second. All in favor. Motion carried for approval.

3. **Applicant: Anthony and Kim Matter** 2333 Hillcrest Lane, Hawley, MN 56549 **Project Location:** 33648 S Cotton Lake Rd **LEGAL LAND DESCRIPTION: Tax ID number:** R100595000 Cotton Lake Beach Lots 12 & 13; Section 11, TWP 139, Range 40, Erie Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a dwelling addition 26 feet from the road right of way onto the rear of an existing dwelling located ahead of the neighboring structural stringline at 52 feet from the OWH due to the substandard sized lot of record. This deviates from a dwelling road setback of 45 feet from the right of way and equal to or behind neighboring structural stringline.

Anthony (Tony) Matter and contractor Rod Ulmer explained the application to the Board. Matter stated they would like to add onto the rear of existing structure on top of the walkout basement/foundation. They would remove the top of the cabin, leave the front wall and add onto the rear. Spaeth asked if they would remove the foundation on the rear area, to which they stated yes, they would tie into that and enlarge the area under the new upper cabin. Matter stated he located one property pin that was marked to the rear. Brufflodt asked if they were going to replace the deck on the front that hangs over the existing slab/lower area to which they stated yes. Brufflodt stated the larger deck/landing halfway down to the lake was not permitted and the Board would like to see the deck and small shed removed out of the shore impact area to which the owner stated he would agree to that. Matter stated the front of the new cabin would not be much higher than the existing and they felt it would be more detrimental to the steep slope to try to remove any of the concrete and move back.

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

The Board agreed to remove the existing slab, foundation, and cement steps would do more damage to the steep slope. Chirpich noted the proposal showed mitigation is to be implemented to try to control any roof surface runoff with gutters, spouts, french drains and side berms proposed. The shoreline is natural and Chirpich reminded the owners it is to stay natural to protect the embankment. Sherlin stated the concrete steps going down to the lake should not be disturbed, but remain, with possibly wood ones constructed on top for access. Spaeth asked if they should have the owner verify where the other property pin is and the lot area to see if the structure could be moved back toward the road. Schutz stated there would be more damage to move back and try to restore the area. Chirpich agreed any work lakeside would damage a protected area. Spaeth commented if it were possible, they could leave the front slab and foundation area for support, and start the dwelling back further. Brufflodt reminded the Board they are to act on the proposal in front of them. Sherlin stated the measurements do not add up on the proposal and is wondering if the property has lost lake frontage since the original platting of the property. If that is the back property pin the owner located, the property is shorter in length. Spaeth reminded the Board that the motion should include

the lower deck and small shed removed. Chirpich stated the mitigation must be implemented as proposed and the owners are to work with the County for advisement.

MOTION: Sherlin made the motion a Variance be granted for new construction onto the existing foundation with addition onto the rear based on the hardship due to the topography of the lot and the practical difficulty in any movement of the existing foundation AND ON THE FINDINGS OF THE LOT MEASURING 131' ALLOWING THE PROPOSAL TO BE 26' FROM THE ROAD RIGHT OF WAY/PROPERTY PINS. Stipulations upon granting the Variance include the removal of the lakeside deck and small shed, shoreline vegetation to remain natural (unmowed/unweedwacked) and mitigation implemented for stormwater runoff. Chirpich second. All in favor. Motion carried for approval.

4. **Applicant: Michael Williams** 2913 25th Ave S, Fargo, ND 58103 **Project Location:** 11556 E Lake Eunice Rd **LEGAL LAND DESCRIPTION: Tax ID number:** R170297003 Eunice Hanusch 1st Subd Lots 13 & 14 and pt of Govt Lot 3; Section 26, TWP 138, Range 42, Lake Eunice Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to attach a detached garage located 20 feet from the road right of way onto an existing dwelling due to setback issues and a substandard sized lot of record. This deviates from an attached garage to be located 45 ft from the road right of way.

Michael Williams explained the application to the Board. There is a 8' gap between the existing dwelling and existing detached garage they would like to tie into the attach the garage. Williams felt the request was for reasonable use to utilize the property year around and walk from the garage into the dwelling without going outside. Spaeth asked why this was not addressed earlier at the time the application was made for the garage to which Williams stated it was due to affordability. Williams stated the flat part of the lot was a perfect place for the garage due to slope issues and the property having the only mature trees to the south that would have had to be removed to place the garage further into the property at the time of construction. Moore confirmed the only setback being varied from was the road setback to which Williams answered he was correct. Spaeth stated the same request was before the Board 2 yrs ago and wanted to know how the request had changed from them. Williams stated the building was constructed and was noncompliant due to the total dormers on the side of the structure making the structure more than a ½ story on the top. Williams worked with Administrator Patty Swenson and corrected the interior ceiling to allow the structure as conforming. Sherlin stated the past records show their where strong feelings regarding the nonconformity, but the findings of the denied variance stated it was due to an undemonstrated hardship of the property. Williams stated there is a practical difficulty of the property due to the slope of the lot and where the existing dwelling is located. Williams reminded Sherlin that the discussion from the previous request also had some of the Board members stating the request may be looked at differently if the garage was a conforming structure. Williams stated he has removed the issue of the garage being nonconforming and has reapplied for his request. Williams stated the hardship is the topography and reasonable use of the property. Spaeth noted there is a natural berm on the shoreline of the property that should remain undisturbed and there is a small shed that could be removed from the shore impact area. Williams agreed that would not be a problem. Williams further stated they have implemented a swale/catch area for any water runoff before it goes to the lake. They have planted more trees to help further with runoff and erosion control.

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

Moore stated everyone is entitled to a garage to which Spaeth stated yes but nothing states they have to be attached for reasonable use. Spaeth noted he the garage plan could have placed the garage to the side and down further to later attach and it would not have required a Variance. But then the owner would have had a slope to go down into the property. Schutz reminded the Board they are not there to construct the structures for the property owners, the garage could have been constructed closer to the dwelling, and he feels there is no hardship of the property. Chirpich noted there would be no damage to the lake or the neighborhood character if approved. Schutz did not agree to approval because of poor planning on the owners part. Sherlin stated this may have be looked at differently if the owner had made this request before the garage was constructed. Sherlin reminded the Board there have been requests of this sort that have been

approved due to the topography of the property and a substandard parcel. The property has 20 feet for parking and it is a dead end road of little use. Brufloct stated they set precedents on everything they decide as a Board and act on each application individually in small/different ways. They have looked at practical and beneficial use. Spaeth stated that due to the slope, substandard lot, maintaining a 20' setback off of the road and the setback of the existing house being as far back from the lake as it can be, the application should be looked at as it came in for practical/reasonable use. Moore agreed this should be reviewed as proposed to the Board now.

MOTION: Spaeth made the motion to grant a Variance to attach the existing dwelling to the garage as proposed due to the topography and substandard lot of record. Stipulations include implementing mitigation with gutters, spouts and swale/infiltration areas for stormwater runoff from roof surfaces, the removal of the boathouse from the shoreimpact zone and leaving the natural shoreline berm intact. Moore second. Original vote resulted in a 3 to 3 deadlock- a roll call vote was taken resulting in Moore, Spaeth and Chirpich in favor with Schutz, Kessler and Sherlin apposed. Chairman Brufloct broke the deadlock with a vote in favor. Therefore, the majority ruled in favor and the Motion carried for approval.

FINAL ORDER OF BUSINESS: Informational Meeting. The next informational meeting is scheduled for Thursday, October 7, 2010 at 7:00 a.m. at the Courthouse 3rd floor meeting room.

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.

Chairman Brufloct

ATTEST

Patricia Swenson, Zoning Administrator