

**Becker County Board of Adjustments
May 12, 2011**

Present: Board Members Steve Spaeth, Lee Kessler, Jim Bruflodt, Bill Sherlin, Al Chirpich, Jerry Schutz and Zoning Staff Debi Moltzan.

Chairman Bruflodt called the meeting to order at 7:00 p.m. Debi Moltzan took the minutes.

Sherlin made a motion to approve the minutes from the November 2010 meeting. Chirpich second. All in favor. Motion carried.

Bruflodt explained the protocol for the meeting and Spaeth read the criteria in which a variance may be granted.

FIRST ORDER OF BUSINESS: Craig Ellingson. Request an after-the-fact Variance to allow an 8'x12' storage shed to remain 4' from side property line & 30' from OHW of lake. The 8'x10' storage shed replaced a 6'x8' storage shed & was relocated to a different site on the property. The structure does not meet the criteria for a water oriented structure nor does it meet the required setbacks. The property is described as: Block 001 Lot 28 & Restricted Drive and Block 002 Lot 1 & Restricted Drive, Summer Island; Section 06, TWP 138, Range 42, Lake Eunice Township, PID Numbers 17.1168.000 & 17.1169.000. The property is located at 15401 Summer Island on Leaf Lake.

Ellingson explained the application to the Board. He had removed an old shed/outhouse from the property. He wanted to replace the shed in the same location but his builder said it could not be replaced due to the topography. The structure was prebuilt and moved to the property.

Bruflodt questioned the size of the structure. Ellingson stated that the new structure was 8 ft by 12 ft. Spaeth stated that the County records indicate that the old shed was smaller than indicated on the application. The County records show that the shed was 48 sq ft in size. Ellingson showed pictures of the old structure and the location it was in. Spaeth asked Ellingson what the practical difficulty is that would require a variance. Ellingson stated that there are topography issues. Spaeth stated that the structure is too close to the side lot line and that the existing structure could have been replaced with the same size structure in the same location without a variance. Chirpich questioned if Ellingson had contact with the Zoning Office prior to the placement of the structure. Ellingson stated that he had not. Chirpich stated that the Zoning Office would have told him that he would have been able to replace the existing structure with a new one the same size in the same location without a variance.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Mike and Linda Lyman, in opposition to the application. At this time, testimony was closed and further discussion was held.

Schutz stated that the Board knows what would have happened if Ellingson would have went to the Zoning Office prior construction for a permit – he could have replaced the shed in the same location and the same size. Spaeth stated that the lot is problematic but a shed could be placed on the property without a variance. Sherlin stated that the intent of the Ordinance is to allow nonconforming lots to continue with their use, but the nonconformity cannot be enlarged or increased and the 48 sq ft shed is reasonable for this size lot. Sherlin stated that he would have to vote in opposition to the application.

At this time, Ellingson asked to table the application.

SECOND ORDER OF BUSINESS: Jane Stockstrom. Request a Variance to relocate a boathouse 46' from the property line deviating from the required placement within the center 25' of the lot for the property described as: PICKEREL BAY Lot 003 Block 001; Section 15, TWP 139, Range 40, Erie Township. PID Number 10.0693.103. The proerpty is located at 32760 Carlson Dr on Pickerel Lake.

Kelly Stockstrom explained the application to the Board. They would like to construct a boathouse, but not in the required center of the lot due to the topography. The structure would be used to house their boat in the winter. The boathouse would be accessed from the lake by a tram system. Discussion was held on the size of the tram, how the tram worked and what happens to the tram in the winter. Kessler questioned what the difference (in feet) would be from the desired location and the proposed location. Stockstrom stated that the center of the lot would be 75 ft, the structure could be placed within 62.5 ft and 87.5 feet from the side lot lines and the proposed location is 46 feet from the side lot line. Further discussion was held regarding the location, run off and the construction of the structure. Schutz stated that he would like to see French drains for the run off from the house to slow the water down that is going down the hill and then some type of retention area along the lakeshore.

No one spoke in favor of the application. No one spoke against the application. There was no written correspondence either for or against the application. At this time, testimony was closed and further discussion held.

Discussion included the damage that would be caused to the hill if the structure was placed closer to the center of the lot, mitigation and the fact that the topography does allow for a water oriented structure, but the topography also interferes with the required setbacks and location.

Motion: Chirpich made a motion to approve a variance to allow a boathouse to be located forty-six (46) feet from the side lot line due to the topography of the lot and placement within the center twenty-five (25) feet would be more detrimental to the slope. Kessler second. Schutz stated that he would like to see French drains installed to catch the run off from the house and a water retention area near the lakeshore, exact location and size to be determined by the Zoning Office, and the run off from the boathouse roof not drain directly to the lake. Chirpich amended his motion to read: approve a variance to allow a boathouse to be located forty-six (46) feet from the side lot line due to the

topography of the lot and placement within the center twenty-five (25) feet would be more detrimental to the slope with the stipulations that French drains be installed to catch the run off from the house, a water retention area be installed near the lakeshore, exact location and size to be determined by the Zoning Office, and the run off from the boathouse roof not drain directly to the lake. Kessler second. All in favor. Motion carried. Variance approved.

THIRD ORDER OF BUSINESS: Lawrence & Patricia Baasch. Request a Variance to exceed 25% lot coverage. The proposed lot coverage would be 27.47% and constructed with permeable pavers for the property described as: Govt Lot 3; Section 09, TWP 139, Range 41, Detroit Township. PID Number 08.0138.000. The property is located at 25469 Oakland Beach Ln on Big Floyd Lake.

The application was explained by Belinda Nickolauson, Country Fields Greenhouse and Landscaping. Nickolauson explained that the house and garage were constructed at maximum lot coverage and did not allow for a sidewalk and patio area. French drains and a retention area have been installed to handle the storm water. The sidewalk and patio will be constructed of permeable pavers and would collect the run off coming down the hill from the neighbor's property.

Brufloft questioned the maintenance of permeable pavers. Nickolauson stated that the pavers are to be power washed every year and a full maintenance be done every three (3) to five (5) years, which would include vacuuming the rocks, and replacing broken pavers, among other things. Schutz questioned what the lower garage is used for. Nickolauson stated that the lower garage is used to store the lawn mower and deck furniture. Schutz questioned why this area could not be kept grass. Discussion was held regarding the amount of coverage, if the patio was eliminated if the sidewalk addition would be under 25%, whether or not the property owners knew they were at maximum coverage at the time of construction, history of permeable pavers and maintenance of the pavers.

No one spoke in favor of the application. No one spoke against the application. At this time, testimony was closed and further discussion was held. Chirpich stated that the owners knew at the time of construction that they were at maximum lot coverage. Brufloft stated that, no matter who does the work, the homeowner is responsible for the activities taking place on the property. Sherlin stated that this is a man made practical difficulty created by the homeowner. Schutz stated that the lack of a sidewalk and patio may be an inconvenience, but it is not a practical difficulty in which a variance could be granted.

Motion: Schutz made a motion to deny a variance to exceed 25% lot coverage based on the fact that a practical difficulty could not be proven and the current homeowner created the situation. Sherlin second. All in favor. Motion carried. Variance denied.

FOURTH ORDER OF BUSINESS: Robert Rosenvold. Request a Variance to construct a detached garage 13.2' feet from the ROW due to the substandard size lot of record for the property described as: Lot 16 and WLY1/2 of Lot 17; Section 30, TWP

138, Range 42, Lake Eunice Township. PID Number 17.0736.000. The property is located at 17222 Haugen Beach Road on Big Cormorant Lake.

Sherlin stated that he would not be partaking in the discussion or the decision due to the fact that he knew Rosenvold and it would be a conflict of interest.

Rosenvold explained the application to the Board. He would like to construct a single stall garage 14 ft by 24 ft in size. The structure would be thirteen (13) feet from the road right of way but 30 feet from the asphalt-driving surface.

Spaeth questioned the setback of the house to the road right of way. Spaeth stated that he measured 42 ft, so if the new structure was 22 ft deep and pushed up to the house, the structure would meet the 20 ft setback and no variance would be required. Rosenvold stated that if the structure was pushed up to the house, there would be no room to get around the structure. Schutz questioned if the structure could be rotated 90 degrees. Rosenvold stated that if that were possible, more driveway would be required and lot coverage would become an issue. Chirpich questioned if the placement of the garage would interfere with the French drain already installed for mitigation for the house. Rosenvold stated that it would not and that the new garage would be tied into that French drain. Brufloft questioned if there would be an upper story. Rosenvold stated that there would be a 9 ft by 12 ft area for storage. Further discussion was located on the location, setbacks and lot coverage.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Richard and Marlene Rayment, Dennis and Patricia Gilbertson, and Bruce and Margaret Asleson, all in favor of the application. At this time, testimony was closed and further discussion was held.

Chirpich stated that the Board has denied variances in the past that were less than 20 feet from the right of way. Schutz stated that the garage could be made shorter and moved closer to the lot line. Spaeth stated that this road is a dead end road with minimal traffic. Further discussion was held and Brufloft stated that the applicant had the right to table the application. Rosenvold asked that if he changed his variance request, if the Board would reconsider the change. At this time, Rosenvold changed his request to ask for a variance to be seventeen (17) feet from the road right of way.

Motion: Spaeth made a motion to approve a variance to allow a detached garage seventeen (17) feet from the road right of way due to the size of the lot and the fact that the road is a dead end road with minimal traffic. Kessler second. Voting in favor of the motion were Spaeth and Kessler. Voting against the motion were Chirpich and Schutz. Brufloft voted in favor the motion to break the tie. Sherlin abstained from voting. Majority in favor. Motion carried. Variance approved.

FIFTH ORDER OF BUSINESS: Curtis Johnson. Request a Variance for a garage to be 20' from the centerline of the Township Road, which would be 5 ft from the ROW, and 65 ft from the OHW mark of the lake due to the overlapping setbacks and topography

issues. And Request a variance to enlarge an approved 32'x32' building footprint to 36'x36', with the structure going 2' closer to the road due to the overlapping setbacks and topography issues. The approved building footprint is currently 50' from the OHW mark of the lake and 65' from the centerline of the township road, which is 50' from the ROW for the property described as: Pt Govt Lot 3:... Section 08, TWP 138, Range 41, Lake View Township. PID Number 19.0785.000. The property is located at 24392 Woodland Ln on Munson Lake.

Johnson explained the application to the Board. The lot was split in 2003. This lot has been for sale for the past two years. They have decided to put their house up for sale, since it is too large for them, and construct a new house and garage. Johnson was under the assumption that the old cabin was 36 ft by 36 ft, but found out later that the structure was 32 ft by 32 ft. They would like to build a handicap accessible house, which would require a 36 ft by 36 ft structure. The garage site would require a large amount of fill to keep the garage one level so there are no steps.

Chirpich asked if the house would be constructed in the same location as the old house and if the County verified the size of the old house. Johnson stated that the house would be constructed in the same location as the old house. Moltzan stated that the Assessor's records and the survey used for the lot split in 2003 showed that the old house was 32 ft by 32 ft. Discussion was held regarding the lot split that occurred in 2003. The Board stated that Johnson was fully aware of the stipulation at the time of the split.

No one spoke in favor of the application. Speaking in opposition to the application were Gail Hahn, Lake View Township, and Hans Gildorf. Both were concerned about the traffic, narrow road, increased run off to the lake and that Johnson had agreed to the 2003 stipulations. At this time, testimony was closed and further discussion held.

Sherlin stated that the Planning Commission allowed the lot split in 2003 even though the lot had no buildable area, but the split did occur and the stipulation was that the old structure could be replaced with a new structure in the same location. Johnson was fully aware of the stipulations and the practical difficulty was created by this landowner. Spaeth stated that Sherlin has made a strong point. Sherlin further stated that this is not personal, the Board must look at the facts dealing with the property because a variance goes with the property.

Brufloft stated that there are two portions of the request, so each portion would be acted on separately.

Motion: Sherlin made a motion to deny a variance to construct a garage 20' from the centerline of the Township Road, which would be 5 ft from the ROW, and 65 ft from the OHW mark based on the fact that a practical difficulty could not be proven and the current homeowner created the situation. Spaeth second. All in favor. Motion carried. Variance denied.

Sherlin made a motion to deny a variance to enlarge an approved 32'x32' building footprint to 36'x36', with the structure going 2' closer to the road based on the fact that a practical difficulty could not be proven and the current homeowner created the situation. Schutz second. All in favor. Motion carried. Variance denied.

SIXTH ORDER OF BUSINESS: Informational Meeting. The next informational meeting is scheduled for Thursday, June 2, 2011 at 7:00 am in the Third Floor Meeting Room Original Courthouse.

Election of officers was held. Spaeth made a motion to nominate Bruflo dt for chairman. Schutz second. Spaeth made a motion to cease nominations. Schutz second. All in favor. Motion carried. Bruflo dt will be chairman for 2011.

Bruflo dt made a motion to nominate Spaeth for vice-chairman. Schutz second. Sherlin made a motion to cease nominations. Schutz second. All in favor. Motion carried. Spaeth will be vice-chairman for 2011.

Since there was no further business to come before the Board, Chirpich made a motion to adjourn the meeting. Kessler second. All in favor. Motion carried. Meeting adjourned at 8:45 p.m.

Jim Bruflo dt, Chairman

Patricia Swenson, Zoning Administrator