

**Becker County Board of Adjustments  
August 11th, 2011**

**Present:** Board Members Bill Sherlin, Al Chirpich, Kip Moore, Vice-Chairman Steve Spaeth, Lee Kessler, Jerry Schutz, Zoning Staff Administrator Patty Swenson and Zoning Technician Julene Hodgson. Chairman Jim Brufloodt was absent.

Acting Vice-Chairman Spaeth called the meeting to order at 7:00 p.m. Julene Hodgson took the minutes.

Spaeth explained the protocol for the meeting and Chirpich read the criteria for which must be met in order to grant a variance.

Sherlin made a motion to approve the minutes from the July 14<sup>th</sup>, 2011 meeting. Chirpich second. All in favor. Motion carried.

**FIRST ORDER OF BUSINESS:** Ronald & Vicki Wiisanen 3054 Bohnet Blvd. NE Fargo, ND 58102 Project Location: 11116 S Lake Eunice Road. APPLICATION AND DESCRIPTION OF PROJECT: Request a variance to construct a Detached Garage 5' from the ROW instead of the required 20'.LEGAL LAND DESCRIPTION: Subdivision Name BERGQUIST BEACH 3RD Subdivision Cd 17005 Lot 9. Tax ID number: 170465000 Lake Eunice Sec27 Twp 138 Range 042 Lake Eunice Township.

Wiisanen's acting agent Gary Heitkamp explained the application to the Board. The request is for a detached garage they would keep parallel to the road. This way they would back onto the property not into the road. The owners would remove the existing bunkquarters and small shed. There are ditch areas in place for stormwater and roof runoff. The Board questioned if they had addressed moving the septic tank or placing the structure closer to the dwelling, to which Heitkamp answered there are existing well issues so the owners don't want to move the tank if possible and they did not want to go closer to the dwelling due to existing trees. Heitkamp explained the owners own property across the road but the property has wetland issues and the existing mound is located on the back property.

No one spoke in favor of the application. No one spoke against the application. There was a written correspondence in favor of the application from neighbors Bratlies and Stanfords. There was written correspondence against the application from Lake Eunice Township. The main concern was snow accumulation creating a hardship for removal. At this time, testimony was closed and further discussion held.

Discussion included different areas for a proposal of a structure that would be further than 5' from the ROW or an attached garage onto the existing dwelling. Chirpich questioned a practical difficulty of the property- owner relocation of septic tanks and trees have not been considered in past applications as a practical difficulty. Kessler noted the proposal would place the lot up to the maximum lot coverage. Spaeth noted the Board could state the lot cannot exceed 25% coverage. Schutz noted that although the parcel was small, the parcel definitely has reasonable use and alternatives. Members agreed the

property does not meet the standards of practical difficulties and the criteria for granting a variance.

**Motion: Schutz made a motion to deny the variance as submitted due to an undemonstrated practical difficulty. Sherlin second. All in favor. Motion carried. Variance denied.**

**SECOND ORDER OF BUSINESS:** Allen & Marian Wotjtalewicz 2008 16<sup>th</sup> Str Moorhead, MN 56560 Project Location: 34235 323<sup>rd</sup> Ave Ogema APPLICATION AND DESCRIPTION OF PROJECT: Request a variance to construct a dwelling 35' from the CL of Twp Road instead of the required 78' from CL. Also 50' from the OHW instead of required 100' from OHW. LEGAL LAND DESCRIPTION: Tax ID number: 200443000 Strawberry Lake; PT GOVT LOT 4: COMM SW COR SEC 35 N 1347.18', E 1352.20', E 302.66', SLY 104.44', SW 300.33' TO POB; NW 33.06', SW 50.21', SE TO STRAWBERRY LK, N AL LK 50', NW 92' TO POB. Sec 35 Twp 142 Range 040

Allen Wotjtalewicz and his contractor explained the application to the Board. He has a substandard parcel that is 100' wide but lacks depth. The existing dwelling is 24x24 and is located in the SIZ. The proposed dwelling is 24x36 with the 36' going parallel with the lake. Wotjtalewicz would place the dwelling 50' back from the OHW which would give him 19' from the ROW. Schutz asked if a deck would be located to the side of the dwelling to which the owner stated yes, the walkout area and the deck would go to the side of the dwelling, nothing would go closer to the lake. Spaeth recommended the owner implement stormwater management to control the roof runoff on lakeside.

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.

Spaeth stated there is an existing small berm along the shoreline and the owner is trying to utilize the small property as best he can without overdoing the size of the structure requested. Kessler noted the entire beach area must request Variances in this area due to the depths of the parcels and it is impossible to not bend the standards to grant reasonable use. Sherlin noted it would be a good trade off to get the dwelling back further from the lake. Sherlin noted the property is a lot of record that was created before Zoning with the current rules coming later. The request is relatively small with the lot proposal at 13%. The Board agreed the runoff will be addressed with gutters, spouts, the existing berm and the owner could restore the old cabin area with vegetation.

**Motion: Kessler made a motion to approve the Variance to construct a dwelling 19' from, the ROW and 50' from the OHW due to a substandard lot of record, which creates a practical difficulty to make any required setbacks and the request allows reasonable use. The owner must implement stormwater management from roof runoff. Sherlin second. All in favor. Motion carried. Variance approved.**

**THIRD ORDER OF BUSINESS:** Scott Fergen 1820 32<sup>nd</sup> Ave S Fargo, ND 58103 Project Location: 11244 S Lake Eunice Dr. APPLICATION AND DESCRIPTION OF

PROJECT: Request a variance to construct an addition onto a dwelling being only 37.5 ft from the OHW instead of the required 75 ft from OHW OR Construct a new dwelling 52 ft from the OHW instead of the required 75 ft from OHW. LEGAL LAND DESCRIPTION: Tax ID number: 171071000&171073000 Lake Eunice; NE PART OF LOTS 1 & 2 BEING 54 FT ON LAKE & 122.5 FT ON ROAD & Subdivision Name SANDY BEACH PARK 1<sup>ST</sup> LOT 3 & PT OF LOT 4; BEG 132.02' NE OF MOST ELY COR LOT 2, TH NW 216.63' TO LK, SW AL LK TO S LN LOT 4 & SE AL LOT LN TO SE COR & NE TO POB. Sec 26 Twp 138 Range 042 Lake Eunice Township.

Scott Fergen explained the applications to the Board. Fergen would like to either keep the existing structure located 31' from the lake and add additions onto it at 37.5' from the lake or construct a new structure with the deck at 52' and the dwelling at 64'. Chirpich asked the owner to explain the practical difficulty of the property and why the owner could not construct a new dwelling that could meet the required setbacks. Fergen stated he wanted to use the slope side of the property closest to the lake to construct a walkout structure. Schutz noted the property was large enough that a structure could be located further from the lake. Sherlin questioned the amount of property the owner had for overall area, to which Spaeth noted the property is considered a standard size and there is adequate space to move back the entire structure. Fergen stated his neighbors have no problem with either request.

No one spoke in favor of the application. No one spoke against the application. There was written correspondence in favor of the application from neighbors Nancy and Dick Stigen. There were no letters against the application. At this time, testimony was closed and further discussion held.

Schutz stated that this is a conforming lot and structures should be built within the confines of the Ordinance – there is no evidence of a practical difficulty. Chirpich agreed. Moore noted there are plenty of options for the property. Spaeth stated that the primary concern of the board is moving structures further from the lake and there is no need to approve any additions onto the existing structure that is too close to the lake. Spaeth stated that the variance should be denied because there are other alternatives without a variance, any structure proposal can meet the required setbacks.

**Motion: Schutz made a motion to deny the variance as submitted for both applications due to an undemonstrated practical difficulty. Chirpich second. All in favor. Motion carried. Variance denied for both requests.**

**FOURTH ORDER OF BUSINESS:** Paul Bonk 875 170<sup>th</sup> Ave SW Appleton, MN 56208 Project Location: 12276 Tanglewood Rd APPLICATION AND DESCRIPTION OF PROJECT: Request a variance to construct a deck 40 feet from the OHW instead of the required 100' from the OHW. LEGAL LAND DESCRIPTION: Tax ID number 170668000 Big Cormorant Lake, Pikes Bay Subdivision Name GILBERTSON BEACH Subdivision Cd 17017 Lot 6. Sec 19 Twp 138 Range 042 Lake Eunice Township.

Paul Bonk explained the application to the Board. Bonk proposed impervious removal to assure the property would not exceed the 25% allowed. The existing structure has been on the property before Zoning regulations and was too close to allow a deck or screened in porch area. The back area has an entrance and the side area has a bedroom. Lakeside has an existing entrance and the request would be 42' from the OHW.

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.

The Board questioned what the Ordinance allows for access onto a nonconforming structure to which Swenson answered a 4x6 landing. The current structure has this in place. Board members agreed that although it is a practical difficulty that the existing dwelling is too close to the lake, they have not allowed new construction within the SIZ. Chirpich stated this would allow more encroachment and cannot be allowed.

**MOTION: Chirpich made a motion to deny a Variance to construct a deck 42' from the lake due to an undemonstrated practical difficulty. Kessler second. All in favor. Motion carried. Variance denied.**

**FIFTH ORDER OF BUSINESS:** BK Pines 4108 Furnberg PL S Fargo, ND 58104  
Project Location: 11635 Fern Beach Dr. APPLICATION AND DESCRIPTION OF PROJECT: Request a Variance to construct an addition onto a non-conforming structure. LEGAL LAND DESCRIPTION: Tax ID number 191299000 Lake Melissa Subdivision Name FERN BEACH 3RD ADD Subdivision Cd 19041 Lots 13 & 14. Sec 30 Twp 138 Range 041 Lake View Township.

BK Pines (AKA Robert and Kerry Bahl) Kerry Bahl explained the application to the Board. The existing structure was constructed in 1949 before the Zoning regulations. The property is conforming except the existing structure is 7 1/2' from the side property line instead of the required 10'. The request would be an addition onto the other side of the structure and up above the existing garage- nothing would be done to the side in question.

Lakeview Township Supervisor Gail Hahn stated the Township had no objection to 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.

Moore stated it is hard to penalize a current home owner for something that happened 62 years ago and the existing structure meets the required lake setback, with the addition request even further back from the lake. Sherlin noted the parcel was a conforming lot size and the request does not vary far from the required side setback. Chirpich wanted the Board to consider adding a stipulation for anything granted to include if anything were to happen to the existing structure that any future proposal would have to meet current regulations.

**MOTION: Sherlin made a motion a Variance be approved to allow an addition onto a nonconforming dwelling located 7 1/2' from the side property line due to the findings of a practical difficulty was created by someone other than the current landowner and was created before Zoning regulations. If the existing dwelling is destroyed by fire or other peril a future dwelling must meet the current regulations. Chirpich second. All in favor. Motion carried. Variance approved.**

**SIXTH ORDER OF BUSINESS:** Scott & Lisa Rietsema 15344 Blackhawk Rd Audubon, MN 56511 Project Location: 15344 Blackhawk Rd. APPLICATION AND DESCRIPTION OF PROJECT: Request a variance to construct a pole shed 33 ft from the CL on a Township Rd instead of the required 53 ft from CL. LEGAL LAND DESCRIPTION: Tax ID number 170049006 Leif Lake PT GOVT LOT 6: BEG ELY COR LOT 1 BLK 1 BLACKHAWK MT BCH 2ND ADDN TH SE 1536.66' TO POB, TH E 33' TO CTR PUB RD, SELY AL RD 320.27', TH W 310.83' TO LK, NLY AL LEAF LK 322.91', TH E 122.12' TO POB Sec 05 Twp 138 Range 42. Lake Eunice Township.

Scott and Lisa Rietsema explained the application to the Board. They would like to place the storage shed closer to the road as to not disturb their existing septic mound. Their fear is if the structure were closer to the lake it would cause runoff issues. They want to turn the structure to drive onto the property and into the structure, then they would not have to back out onto the Township road. Rietsema's noted the Township had written a letter against the application and they felt there would not be a problem of snow accumulation in this location. They said due to the topography of the property, they have no problem with snow in this area.

Mike Reep spoke in favor of the application. No one spoke against the application. There was written correspondence against the application from the Lake Eunice Township. The main concern was possible snow accumulations providing a hardship for removal for the Township. There was no written correspondence in favor of the application. At this time, testimony was closed and further discussion held.

The Board noted a survey was previously conducted of the property. This showed the property is a standard size parcel, with the buildable area defined on the survey. If the owners proposed it further back from the road, it would not make the lake setback in the area per the survey measurements. Rietsema noted there is more area up toward the road (than the existing survey shows) due to the road surface had been relocated a few years ago. There was not proof of a new survey, or that the portion of the road area in question had ever been vacated by the Township. Sherlin noted the owners cannot propose to build a structure in that area until it is proven they own the area. Moore noted this is a conforming lot of record and he saw no reason to grant a Variance if there are other suitable locations. Schutz recommended the owners table the application to look into further information pertaining to any road vacation orders for the property. Schutz noted the owners may want to re-look at all property options. Schutz noted he cannot affirm any practical difficulty of the property. Spaeth stated the Board has not allowed structures right up to the ROW.

**At this time the Rietsama's requested to table their application until further notice to explore all property options and to bring further information back to the Board.**

**SEVENTH ORDER OF BUSINESS:** George & Jeanette Carlson 24963 Co Hwy 27 Rochert, MN 56578 Project Location: 27710 Co Rd 21 APPLICATION AND DESCRIPTION OF PROJECT: Request a variance to allow an existing structure to stay one foot (1') from side property line. LEGAL LAND DESCRIPTION: Tax ID number 240330000 Subdivision Name TOWNSITE OF RICHWOOD 140 41 Block 004 Subdivision Cd 24004 Lots 1,2,3,4, & 5 Sec 02 Twp 140 Range 041.

There was no one present to explain the application to the Board.

No one spoke in favor of the application. Mike Gillard spoke against the application. He stated the previous owner placed the structure too close to the property line although the application stated he would be 10' from the side property line. He noted the property use (food facility) brings a lot of people with extra vehicles and he has safety concerns. He stated if the Board is going to allow the existing structure to remain where it is located, he would like to see the current owner place a privacy fence along the side property line. There was no written correspondence either for or against the application. At this time, testimony was closed and further discussion held.

Chirpich noted there was no one present to state the practical difficulty of the property and why should the Board grant a Variance for a property when there is adequate room to make the required setbacks. Sherlin stated although this was caused by a previous owner, the structure was permitted to make all property setbacks and it was the owners responsibility to meet what was approved.

**MOTION: Chirpich made a motion to deny a Variance as submitted due to an undemonstrated practical difficulty. Moore second. All in favor. Motion denied.**

**EIGHTH ORDER OF BUSINESS: Informational Meeting.** The next informational meeting is scheduled for Thursday, September 8th, 2011 at 7:00 am in the 3<sup>rd</sup> Floor Meeting Room of the Original Courthouse.

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

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Steve Spaeth, Vice-Chairman

ATTEST

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Patricia L. Swenson, Administrator