

Becker County Board of Adjustments
June 14, 2012

Present: Members Jim Bruflodt, Bill Sherlin, Al Chirpich, Kip Moore, Lee Kessler and Debi Moltzan, Zoning Office.

Chairman Bruflodt called the meeting to order. Debi Moltzan took minutes.

The minutes from the May meeting were discussed. Kessler stated that there was an error on the 4th page, Reiner application. In the fourth line, the word 'road' should actually be 'lake' and '68' should really be '58'. Sherlin made a motion to approve the corrected minutes from the May 11, 2012 meeting. Chirpich second. All in favor. Motion carried.

Bruflodt explained the protocol of the meeting. Chirpich read the criteria for which a variance can be granted.

FIRST ORDER OF BUSINESS: Roger Brown. Request a variance to construct an addition onto a non-conforming cabin which is 39' from the OHW instead of the required 100' from the OHW, and 8' from the side lot line instead of the required 10' from the side lot line for the property described as: Tax ID Number: 200424000, S 100' OF N 140' E OF PRIVATE ROAD PT OF LOT 3 & KNOWN AS LOTS 18 & 19; Sec 35, TWP 142, Range 40, Maple Grove Township. The property is located on Strawberry Lake at 34435 Strawberry Lane. This application was tabled by the applicant at the May meeting.

Brown explained his application. The application request did not change but was willing to do the following mitigation: set aside a shoreline buffer 40 ft by 25 ft on the north side of the lot; remove the two lower decks and add plantings of dogwood bushes 14 ft by 10 ft and 10 ft by 10 ft; berm in center of the lot about 16 inches high; remove addition to top deck 8 ft by 11 ft on the north end; add random plantings on steep bank from center of lot going south – erosion control and rain water control from roofs.

Kessler asked about the 2 ft off set from the new to old building. Brown stated that off setting the building by 2 ft would cause water problems and could push water onto the neighbor's property. When asked about moving the porch to the side of the house and out of the shore impact zone, Brown stated that this would interfere with the septic lines.

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 discussion held.

Discussion included setback of current deck, current porch, new addition, how much of the existing structure is located in the shore impact zone, and making a nonconforming structure more permanent. Sherlin, Chirpich and Kessler agreed that they could not support an addition onto a nonconforming structure located in the shore impact zone.

Motion: Sherlin made a motion to deny the variance based on the fact that it is not in harmony and intent of the Zoning Ordinance. Chirpich second. All in favor. Motion carried.

SECOND ORDER OF BUSINESS: Allen Reiners. Request a variance to construct a dwelling 58' from the OHW instead of the required 100' from the OHW for the property described as: Tax ID Numbers: 180302000, 180303000, 180304000, 180292000, Lots 14, 15, 16, Block 2 and Lot 61, Block 1, Bijou Heights, Sec 29, TWP 139, Range 43, Lake Park Township. The property is located on Bijou Lake at 17455 Bijou Circle. This application was tabled by the applicant's representative at the May meeting.

Zenas Baer explained the application to the Board. At the last meeting, Baer did not have the authorization from the homeowner to change the original request. The homeowner has now allowed Baer to act on his behalf for a structure 68 ft from OHW, which would meet the setback average plus 20 ft, and 35 feet from the road right of way. The current structure, along with decks by the lake, would be removed and a new home constructed on the property.

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 discussion held.

Discussion included Reiners' did come back with an acceptable plan, the new structure would be setback further from the lake and the decking structures would be removed from the lakeshore.

Motion: Sherlin made a motion to approve a variance to allow a structure thirty-five (35) feet from the road right of way based on the fact that there is a practical difficulty in meeting the required setbacks on this nonconforming lot. Chirpich second. All in favor. Motion carried.

Sherlin then made a motion to deny a variance to allow a dwelling fifty-eight (58) feet from the ordinary high water mark based on the fact that the setback average plus twenty (20) feet regulation could be met and by denying this request, and with the road setback variance, this is the lesser variance being granted on the property. Moore second. All in favor. Motion carried.

THIRD ORDER OF BUSINESS: Kenneth Huesman. Request a variance to construct a dwelling 53' from the OHW instead of the required 100' from the OHW, & 20' from the ROW instead of the required 45' from the ROW for the property described as: Tax ID Number: 171006000, Lot 2, MORTON OAK LN BCH 3RD, Sec 21, TWP 138, Range 42, Lake Eunice Township. The property is located on Maud Lake at 19746 Morton Oaks Road. This application was tabled by the applicant at the May meeting.

Huesman and his son Jim explained the application to the Board. The OHW and right of way was located and new measurements taken. One storage shed would be removed and an additional stall would be added to the garage.

Discussion was held regarding the original request measurements, revised request measurements and measurements taken during the tour. Consensus of the Board was that no matter how you added or subtracted the numbers, the numbers did not coincide.

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 discussion held.

Discussion was held regarding not being able to correctly determine where the road right of way was, where the property lines were and where the OHW was located due to the fact that only one property pin was found. Huesman stated that the measurements were simple; the measurements were taken from the water to the tar. Chirpich stated that the Board could not use measurements from the water to the tar; they could only deal with measurements from the OHW and right of way. Further discussion was held regarding the current variance on file, if stipulations could be placed on the old variance if a new variance was granted.

Sherlin felt that if too many variances were needed, then there is too much building trying to be placed on the lot. Brufloft stated that he was comfortable with taking the 1991 lake setback of sixty-five (65) feet from the OHW and twenty (20) feet from the road right of way.

Motion: Chirpich made a motion to approve a variance to allow a dwelling twenty-seven (27) feet from the road right of way and seventy-two (72) feet from the ordinary high water mark of the lake, with a deck not to go closer to the lake than seventy-two (72) feet with the stipulation that storm water mitigation be done to control run off and that this variance negates/vacates the 1991 variance, making the 1991 variance null and void based on the fact that the lot is a substandard size lot and some type of a variance is required. Moore second. All in favor except Sherlin. Majority in favor. Motion carried.

FOURTH ORDER OF BUSINESS: David and Elizabeth Heitman. Request a variance to build an addition and deck 30 ft from the OHW instead of the required 100 ft setback on the property described as: PID Number 090109000, PT GOVT LOT 6;COMM AT SE COR LOT 6, TH N 635' TO POB,CONT N AL E LN 160.02',TH W 458.31' TO ELBOW LK,TH SWLY AL LK 234.47',TH W 617.17' TO POB; Section 13, TWP 142, Range 39, Eagle View Township. The property is located on Big Elbow Lake at 38494 Ada Beach Road.

Dave Heitman explained the application to the Board. The existing cabin is built into the hill and they would like to add onto the cabin, which is thirty (30) feet from the OHW. Chirpich questioned if they entertained the idea of moving the structure back, up on the hill, further from the lake. Heitman said they did give it some thought but economics was the main factor in deciding against it.

Moore asked how long Heitman had owned the property. Heitman stated that it has been in the family for many years, his grandfather, father, himself and now his children and grandchildren are enjoying the property, thus the need for a larger cabin.

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.

Brufloft stated that they would not be denied use of the property if the variance was not granted. Chirpach stated that of the six (6) main criteria, he could only answer yes to one of them and that if they would move back to the 100 ft setback, they could build just about anything they wanted. Chirpach further stated that it is clear in State and County regulations do not allow for expansion in the shore impact zone, and in this case there is plenty of land elsewhere to expand. Moore stated that it is a sad situation that the cabin is right on the lake, but the cabin can be used as is or move the cabin back.

Motion: Chirpach made a motion to deny the variance based on the fact that there is adequate land to meet the current Zoning regulations and there is no practical difficulty. Kessler second. All in favor. Motion carried.

FIFTH ORDER OF BUSINESS: Robert Penner. Request a variance to construct a dwelling 25 ft from the OHW instead of the required 100 ft from the OHW for the property described as: PID Number: 170744000, Lot 25 Haugen Beach; Section 30, TWP 138, Range 42, Lake Eunice Township. The property is located on Big Cormorant Lake at 17363 Haugen Beach Rd.

Penner explained the application to the Board. He would like to replace the existing double wide mobile home with a new home 30 ft by 96 ft and make the property beautiful again.

Brufloft questioned how the structure could be constructed and protected from the weather elements. Penner stated that boulders would be brought in to protect the shoreline and stated that if he could not build the size that he wanted, wanted suggestions as to what size could be constructed.

No one spoke in favor of the application. Tim Sanger spoke against the application with concern about room for turning around, parking and snow removal that would not impact his property. Written correspondence against the application were received from Tim Sanger, Cormorant Lakes Watershed and Big Cormorant Lake Association. At this time, testimony was closed and further discussion was held.

The Board stated that there were already two (2) variances on the property and questioned if they were still in effect and which one. Moltzan stated, that after contacting the County Attorney, both variances were in effect because the 1974 variance did not negate any portion of the 1973 variance. Brufloft felt that the property was not

buildable. Chirpach felt that, according to the placement of the existing structure, it was placed there by measuring from the water's edge at the time instead of the established ordinary high water mark and that the current structure is not in compliance with the past variances. Sherlin, Moore and Kessler agreed that they did not see any buildable area on this lot. Moore stated that the existing structure could be allowed to remain and used, but replacement in the same location is questionable due to the possibility that the current structure is in violation of the existing variances.

Motion: Chirpach made a motion to deny the variance based on the fact that there is no adequate area to place a structure in an environmentally safe manner. Kessler second. All in favor. Motion carried.

Jim Brouse, Realtor, questioned what would/could happen to/with the property now. Brufloft stated that the Board is not in a position to tell them what to do with the property; however, the mobile home is there and could be used as is or remove the mobile home and enjoy the bare land. Discussion was held as to whether or not the mobile home would have to be removed because it is possibly in the wrong spot. Consensus of the Board was that, for the length of time that the mobile home has been in this location, the mobile home could remain as is, but any changes would have to be brought into compliance.

SIXTH ORDER OF BUSINESS: Informational Meeting. The next informational meeting is scheduled for Thursday, July 5, 2012 at 7:00 am at the Third Floor Meeting Room of the Original Courthouse.

Discussion was held regarding the tour date. The 5th is the day after the 4th holiday. Consensus of the Board was that with the 4th being in the middle of the week, the Board did not want to impose on family vacations by touring the property. Consensus of the Board was to move the tour date to Monday, July 9, 2012 at 7:00 am at the Third Floor Meeting Room of the Original Courthouse.

Since there was no business to come before the Board, Chirpach made a motion to adjourn the meeting. Sherlin second. All in favor. Motion carried. Meeting adjourned.

Jim Brufloft, Chairman

ATTEST

Patricia Swenson, Zoning Administrator