

**Becker County Board of Adjustments
September 13th, 2012**

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

Chairman Bruflodt called the meeting to order at 7:00 pm. Julene Hodgson took minutes.

Kessler made a motion to approve the minutes from the August 9th, 2012. Chirpich second. All in favor. Motion carried.

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

OLD BUSINESS: NONE

NEW BUSINESS:

FIRST ORDER OF BUSINESS: Applicant: Ronald & Janet Mack, 124 Ash Lane, Harwood, ND 58042. **Property Location:** 12334 Shorewood Beach Rd. **Application & Description of Project:** Request a Variance to construct an addition onto a nonconforming structure 75' from the OHW. **Legal Land Description:** Tax ID number: 171093000, Maud Lake, Lot 6, Subdivision Name SHOREWOOD 1ST ADDITION 138 42 SubdivisionCd 17062. Lake Eunice Township.

Ronald and Janet Mack explained the application to the Board. Due to health reasons, they want to move a bedroom downstairs to have accessibility with no stairs. The Variance request is to add onto the rear of the existing structure, the request not going closer to the lake. Spaeth asked how far the proposed addition would be from the side lot line to which Mack answered 15'. Chirpich asked if the plan submitted also had crushed rock with just landscape fabric under the decks for water control and Mack said yes. Kessler noted the plan suggested a raingarden and landscaping for stormwater management and asked if they fully intend to implement this and they answered yes. They continued with the comment they will extend the infiltration areas for gutters and they are not extending any sidewalks.

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

Chirpich asked if a health condition is enough for a practical difficulty. Spaeth noted the existing structure is behind the old stringline regulation, is located out of the shore impact zone, the addition will make the required side yard setback and the new setback averaging regulation is what made the existing structure non-conforming. Spaeth stated the practical difficulty is due to the substandard size of the property and the way the existing structure sits on the property. Spaeth stated the nice shoreline buffer should be

required to stay on the property as a stipulation to any approval. Schutz stated he wasn't against the request but would the Board consider this request if it were a "do over" on the property to which Spaeth stated possibly due to the substandard size of the property. Chirpich stated this size and design of the structure that is on there now would not fit with today's regulations without a Variance request.

There was no further discussion by the Board.

Motion: Spaeth made a motion to approve a Variance as submitted to construct an addition onto the existing structure 85' from the OHW due to a substandard lot of record and a practical difficulty due to a recent regulation change that made the existing structure nonconforming. Approved with the stipulation the shoreline buffer must remain along the shoreline to mitigate the lake setback difference and stormwater management must be implemented as the plan submitted to mitigate lot coverage. Boatman second. All in favor. Motion carried for approval.

SECOND ORDER OF BUSINESS: Applicant: Laurel K. Winsor Trust, 13060 Fairhaven Lane, Detroit Lakes, MN 56501. **Property Location:** 13060 Fairhaven Lane. **Application & Description of Project:** Request a Variance to construct an addition onto a nonconforming structure. **Legal Land Description:** Tax ID number: 191419000, Lake Sallie, Lot 9, Subdivision Name KENNEY-BEATON BEACH SubdivisionCd 19060. Lake View Township.

Attorney Patrick Kenny explained the application to the Board on behalf of Laurel Winsor. The letter dated 08/20/12 forwarded to the Board members explains the application. The Winsors requested to add a 10x16 screened porch over the current existing patio and enclosing it. The property is part of an old resort and has the main dwelling up on the hill and two smaller guest cabins by the lakeshore. In 2006 the main house was falling down and the Winsors were approved to rebuild the house in the same footprint in the same location without expansion due to the State Statute. In order to rebuild the structure did not require a Variance but to allow expansion onto that structure would require a Variance request due to the current use of the property with the three dwellings. Kenny stated the plight of the landowner was unique and not created by the current owner. Kenny stated the request does not change the character of area and they feel the request was reasonable. Kenny noted even with an addition the main dwelling meets all property setbacks. Kenny stated he understands if the Variance were granted the Board has the right to add conditions, but he felt any condition should only be attached if the request effects something. The previous lot coverage was reduced and there was mitigation implemented on the property for stormwater management. Kenny stated the applicant has health problems and want to be able to be outside in a screened area to enjoy the outdoors and the view. Laurel Winsor explained the history of her husband's health problems to the Board.

Ken Shroyer Lakeview Township Supervisor stated the Township thought this was a good application but did not take into consideration that the request would cause the structure expansion against the State Statute. Audience members Nick Beaton and Jim Linerud spoke in favor of the application. They noted the Winsors were good custodians of the property. Written

correspondence on file in favor of the application were read by Hodgson from Dick and Lonnie Beaton, Joan Lerdahl, Judy and Gordon Knudsvig, Charlie Whitman, Greg and Renee Johnson, Jana Nichelson and Daniel Skolness. Some comments were: no obstruction from view, enjoy the outdoors, no environmental impact, will not affect the shoreline, the impervious surface already exists, area somewhat protected from the roadway, handicap accessibility, no negative impacts on surrounding property, and a reasonable request. There was no written correspondence against the application. At this time, testimony was closed and discussion was held.

Schutz stated there had been previous Variances for the property with conditions of the guest cottages to be removed and/or moved further back into the property that were later rescinded due to the State Statute allowing them to replace the main dwelling. Schutz stated the Board should look at the first findings regarding the cabins and possibly adding stipulations that would move these structures out of the shore impact zone if a Variance were granted. Kessler noted he was not on the Board in 2006 but stated the property was non conforming at that time due to the three dwellings and the request is minimal but the property is still nonconforming in use. Kessler included they now want to expand the house that was constructed “as is”. Boatman stated his concern regarding the structures in the shore impact zone and the property owners not willing to compromise in some way for the request of expansion. Brufloft noted the request is minimal and the Board visits many sites that have existing structures located in the shore impact zone but it is the use of the property that is the problem and a Variance is usually something you normally wouldn’t get and the patio is already a useable area. Schutz agreed there should be some compromise and stated maybe the property owners should table the request to which Kenny and Winsor stated they did not wish to table the application. Sherlin stated the property will always be nonconforming due to the three dwellings and by granting a Variance would perpetuate the nonconformity. Spaeth agreed that if the property was in compliance the owner would not require a Variance for this addition.

There was no further discussion by the Board.

Motion: Spaeth made a motion to deny a Variance as requested due to no practical difficulty of the property and cause for the request was due to three cottages on the property making the property nonconforming in use with two of the cabins being located in the shore impact zone. Schutz second. All in favor. Motion denied.

THIRD ORDER OF BUSINESS: Applicant: Mike & Carolyn Becraft, 24101 Woodland Lane, Detroit Lakes, MN 56501. **Property Location:** 24101 Woodland Lane. **Application & Description of Project:** Request a Variance to construct an addition onto a nonconforming structure 53’ from the OHW. **Legal Land Description:** Tax ID number: 191930000, Lake Sallie, PT LOTS 17 & 18, ALL LOT 19 & UNNUMBERED LOT BETWEEN LOTS 18 & 19 AKA PT GOVT LOT 2: BEG 5' NE OF MOST NLY COR LOT 17 TH SE 162.60' TO LK SALLIE, NE AL LK TO E LN LOT 19, NW TO MOST NLY COR LOT 19, TH SWLY AL RD TO POB. Subdivision Name Woodland Beach. Lake View Township.

Michael and Carolyn Becraft explained their application to the Board. The proposed addition would be to the rear/roadside of the existing cabin. The existing cabin has been

in its current location for over 76 years and they plan on remodeling the old cabin also which sits 53' back from the lake and there is a historical ice ridge that protects the lake from any runoff. It would create unreasonable financial burden if asked to move the entire structure to meet the new averaging regulation that makes the existing structure nonconforming. Boatman asked if the Becrafts are planning on raising up any part of the old structure to repair the foundation to which Becrafts answered yes. Boatman continued to ask if they could move it back when doing that. Becrafts stated this would be difficult due to the existing cellar location and the area supporting the house. Carolyn Becraft stated the request is reasonable, has no impact on the lake and she felt this was the original intention for the regulations. Michael Becraft added they restored some of the lakeshore and rip-rap areas to help stop erosion. Sherlin asked if they plan on retaining the original interior to which Becraft answered yes, they would keep the existing wood infrastructure.

Ken Shroyer Lakeview Township Supervisor stated the Township did not have any concerns regarding the application. There was written correspondence on file in favor of the application read by Hodgson from Ken Allen, Gary and Ruth Bendewald, Rick and Carol Olson and Marion and Morrie Kershner. Comments included: plan well designed with keeping the existing character of the original 1930's cabin, will not adversely affect adjacent properties, ice ridge protects the lake, and no impervious issues. No one spoke against the application. At this time, testimony was closed and discussion was held.

Brufloft noted the Board commented on the existing ice berm protection. Sherlin stated when the owners lift up the structure to repair, he didn't know if the fireplace or interior design would make the move possible without damage. Brufloft stated if allowed the Board should state some sort of stipulation to assure mitigation measures continue. Spaeth stated the change of the recent regulation placed a practical difficulty on the property due to where the existing structure is located. Spaeth continued noting the structure was behind the old stringline and out of the shore impact zone and the request meets the road setback and seems reasonable for use. Sherlin stated the findings are enough to approve such a request.

There was no further discussion by the Board.

Motion: Sherlin made a motion to approve a Variance to construct an addition onto the rear of the existing dwelling as proposed. The approval was granted due to the practical difficulty in moving the existing structure would cause structural difficulty and due to recent ordinance changes that caused the existing structure to be nonconforming. Stormwater management includes the stipulation that a 12 inch berm must remain along the lakeshore of the property indefinitely.

FOURTH ORDER OF BUSINESS: Applicant: Rod Jordahl, 2306 Victoria Rose Drive, Fargo, ND 58104. **Property Location:** 21014 Co Hwy 29. **Application & Description of Project:** Request a Variance to construct an addition onto a nonconforming structure 80' from the OHW & 9.5' from the side property line. **Legal Land Description:** Tax ID number: 100730000, Cotton Lake, Lot 1, Subdivision Name SUNNY COVE 139 40 Block 001 SubdivisionCd 10017. Erie Township.

Paul Erickson on behalf of property owner Rod Jordahl explained the application to the Board. The proposal would not go any closer to the lake than existing structure or any closer to the side property line. The addition would be 80' from the lake and 9.5' from the side property line. The addition would be on post and pad foundation to allow for air under the structure. The addition will enclose the area that had an existing deck.

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

The Board asked the question regarding the 150' protection zone to which Hodgson stated the overall property coverage was proposed at 14% but due to the entire dwelling located within 150' of the lake, the coverage in the protection area is 29%. The Board agreed the small addition square footage would not add any more percentage to the protection area. The Board noted the existing dwelling was constructed before or right at the time zoning began and the structure was not originally place far enough back from the lake or side property line. Brufloft stated they should suggest downspouts away from the lake and adjacent property owners. Chirpich noted although the old deck allowed some sort of drainage, the new proposal could incorporate some sort of gutter system to invert the runoff under the structure into a filtration area.

There was no further discussion by the Board.

Motion: Spaeth made a motion a Variance be approved as submitted to construct an addition onto the existing structure 80' from the OHW and 9.5' from the side property line due to the practical difficulty caused by the existing setbacks of the original part of the structure that was constructed prior to Zoning regulations. Stipulation of release include stormwater management implemented with gutters, downspouts and infiltration areas to control water runoff away from the lake and adjacent neighboring property due to the lot coverage within the 150' protection zone. Second Chirpich. All in favor. Motion carried to approve.

FIFTH ORDER OF BUSINESS: **Applicant:** Helen Williams, 23059 Roosevelt Beach Lane, Detroit Lakes, MN 56501. **Property Location:** 23027 Roosevelt Beach Lane. **Application & Description of Project:** Request a Variance to construct an addition onto a nonconforming structure. **Legal Land Description:** Tax ID number: 190582000, Melissa Lake, LOT 3 LESS .60 AC IN SE COR. Lake View Township.

Bruce Seim and Vicki Williams spoke on behalf of property owner Helen Williams explained the application to the Board. The request is to add an addition onto the rear of the structure. Spaeth stated that technically all the cabins/dwellings are on the same parcel with leases on each structure. Williams agreed they own all the property under the dwellings and leased them each out to individuals. Williams stated they were willing to do some mitigation as in shoreline vegetation restoration and removing a lakeside ramp. Sherlin noted they have one property with 11 dwellings and if a Variance were granted it is for the property, not just a structure and it would apply to the entire parcel. Brufloft

stated a lease does not constitute individual buildable lots. Sherlin noted this could be misconstrued to apply to all the dwellings. Williams asked if it could be placed on this structure only, to which Brufloft stated the number of dwellings on the property makes the property nonconforming in use. Sherlin stated the Board should not give individual Variances to individual structures. The Board suggested the Williams could table the application, decide what has to be accomplished to create legal individual lots and then come back to the Board with some sort of request. The Board also noted they came up with a different measurement when they were out on the property and some of the existing structure is located in the shore impact zone. Schutz wanted it noted to the Williams when creating the “lots” they must be standard size meeting all the current requirements. **The owners requested to table the application at this time until they can research subdivision of the property.**

APPLICATION TABLED AT OWNERS REQUEST UNTIL SOMETHING FURTHER COMES IN FRONT OF THE BOARD.

SIXTH ORDER OF BUSINESS: **Applicant:** Daniel & Patsy Thompson, 1009 N Mandan Str, Bismarck, ND 58501. **Property Location:** 23505 Broadway Ave. **Application & Description of Project:** Request an after the fact Variance to allow a storage shed to remain 76’ from the OHW. **Legal Land Description:** Tax ID number: 160192002, Rock Lake, PT GOVT LOT 1,2: COMM W QTR COR SEC 29, E 3000', NLY 1773.39' TO POB; NWLY 442.84', W 343.71', N 570.2' TO ROCK LK SELY AL LK 1320.07',NW 183.17' TO POB. Holmesville Township.

Daniel Thompson and Alan Qual explained the application to the Board. Thompson noted the property is “landlocked” with the lake, then a small piece of property, then a wetland and then the rest of the property to the rear. Thompson stated this was more of a temporary structure with no concrete and made of tent like material. Thompson noted the structure was not visible from the lake due to the dark color. Chirpich stated the wetland is a non-classified wetland with no setback from it for structures, so by rights they could go up to it but not into the wetland. By moving the structure closer to the wetland it could possibly meet the lake setback without a Variance. Sherlin also noted the size is too large for the regulation of a detached structure within 200’ of a lake. Qual stated he constructed the structure and it is possible to take off 4 feet to meet the size regulation. Thompson stated it would not be feasible to place the structure back further into the property due to CRP acreage you would have to drive across to get to the structure. Chirpich noted the owners could take measurements to the south and see if it could be relocated to which Schutz agreed if the scaled survey is correct, the structure could meet all required setbacks if relocated. Spaeth noted then there would be no need for a Variance to which Chirpich agreed. **The owners requested to table the application at this time until they can do some measurements and see if there was a suitable area to relocate the structure.**

APPLICATION TABLED AT OWNERS REQUEST UNTIL SOMETHING FURTHER COMES IN FRONT OF THE BOARD.

SEVENTH ORDER OF BUSINESS: Applicant: DKD Investments, 28774 St Hwy 34, Detroit Lakes, MN 56501. **Property Location:** 28774 St Hwy 34. **Application & Description of Project:** Request a Variance to allow a property split resulting in existing storage sheds to be 8' from the side lot line commercially zoned. **Legal Land Description:** Tax ID number: 080437000, PT NW1/4 NE1/4: COMM NE COR TH S 243.57', SWLY 250' AL CO RD #141 TO POB; TH SELY 357',SWLY 675', SELY 120', WLY 225', SLY TO N LN OF PLAT HILLCREST AC, SWLY AL PLAT TO W LN NW1/4 OF NE1/4,TH N TO S LN CO RD #141, SELY AL RD TO POB REF: PT 08.0440.001 IN 2008 & PT 08.1049.300 IN 2009. Detroit Township.

Glenn Disse explained the application to the Board. The existing structures used to be milk sheds and there is a conditional use permit for them to be rented out for storage. The properties to the south that are zoned Commercial have leased two of the units directly north of their properties and they would like to have a survey do a lot line adjustment and purchase the storage sheds. The Board discussed the zoning of the property. Chirpich asked if the owners were aware of the attachment clause that would be associated with the extra property and Disse stated yes. Sherlin noted they were not there to act on any changing of what the property is zoned but the request in front of the Board of the side property line setback. Disse stated he is already leasing the structures but this is more of a financial consideration/need.

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

Spaeth stated this was rare having property zoned in a way that a newly described area will not meet the required side setback between existing structures and the request will probably not come in front of the Board again. Boatman stated he did not agree with the proposal being a practical difficulty of the property and he questioned if there could be a better solution than placing a Variance on the property for these structures. Spaeth read the practical difficulties stating something unique to the property. The Board agreed the extra property can only be attached to the properties to the south and can never stand alone as a separate parcel due to size.

There was no further discussion by the Board.

Motion: Spaeth made a motion for a Variance to be approved to allow the existing storage sheds being 8' from the proposed side lot line due to the practical difficulty involving official control and the original zoning through the comprehensive plan. If the property split is approved, the areas with the storage sheds must be attached and remain attached to the parcels to the south as proposed. If the split proposal does not get approved and or if the pieces are not sold to the parcels to the south, this variance becomes null and void. Kessler second. All in favor except Boatman. Majority ruled. Motion carried to approve.

Informational Meeting. The next informational meeting is scheduled for Thursday, October 4th, 2012 at 7:00 am in the Third Floor Meeting Room of the Original Courthouse.

Since there was no further business to come before the Board, Chirpich made a motion to adjourn the meeting. Kessler second. All in favor. Meeting adjourned at 9:40 p.m.

Jim Bruflo, Chairman

ATTEST _____
Patricia Swenson, Zoning Administrator