

**Becker County Board of Adjustments
November 8, 2012**

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

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

Sherlin made a motion to approve the minutes from the October 11, 2012 meeting. Chirpich second. All in favor. Motion carried.

Brufloft explained the protocol of the meeting and Spaeth read the criteria that apply to either granting or denying a variance.

FIRST ORDER OF BUSINESS: JerriLynn Dunham. Request a Variance to construct an addition onto a nonconforming structure that is 82' from the OHW on the property described as: PT GOVT LOT 1: COMM MNDR COR 11 ON SLY SHORE BIG TOAD LK & W LN SEC 21 TH S 184.23', SE 131.88' TO CTR LN EXIST PUB RD ELY AL RD 25.04' TO POB; CONT SELY 115.04', TH N TO SHORE BIG TOAD LK, NW AL LK 116.40', TH S 224.88' TO CTR LN EXIST PUB RD & POB. Section 21, TWP 139, Range 38, Toad Lake Township. PID Number 33.0188.000. The property is located on Big Toad Lake at 42996 Co Hwy 56.

Dunham explained the application to the Board. The addition would be roadside of the house and would be for a bedroom and bathroom.

Spaeth asked how big the addition would be. Dunham stated the addition would be 20 ft by 16 ft. Schutz questioned if there were gutters on the house. Dunham stated that the house was guttered and the water drains into the grass. Spaeth questioned the size and use of the structure near the lake. Dunham stated that it was an old fish house that she is using for storage, but would like to see it removed.

Discussion was then held on the setbacks from the lake and the road, and where the road right-of-way was located.

John Postovit, COLA, stated that he was neither in favor nor against the application, COLA just had concerns. Postovit felt that if a variance was approved for an addition, then the addition becomes part of the footprint and when the lot is redeveloped, the lake setback is implied, and felt there should be stipulations placed on the variances that the variance is only for the addition and is null and void if the lot is redeveloped. There was no written correspondence either for or against the application. At this time, testimony was closed and further discussion was held.

Discussion was held regarding the size of the lot, location of the present structure, inaccuracy of the site plan, inaccuracy of the measurements, size and location of the road

right-of-way, the change in the ordinance from string line to setback average plus twenty (20) feet and the fact that the addition may also require a variance from the road.

At this time, Dunham asked to table her application in order to draw a more accurate site plan with more accurate setbacks.

SECOND ORDER OF BUSINESS: Kent and Karen Espeseth. Request a Variance to allow Rip Rap to remain & replace the vegetative buffer required through the Shore Land Mitigation Process for the property described as: BEG AT SE COR L1 IDA HGTS TH SE 76.70' NE 181.15' WLY 76' AL LK & SW 180.10' TO BEG, Sec. 13, TWP 138, Range 43, Cormorant Twp. PID Number 06.0466.000. The property is located on Lake Ida at 10775 N Ida Hts Rd.

Espeseth explained the application to the Board and presented the Board with a new proposal. Espeseth explained that the property is 76 feet wide and the buffer was to be 38 feet wide, taking up about 40% of his front lawn. The bank was eroding on the northwest side of the property. He relocated the dock from the NW to the SE side of the property to eliminate steps and the 1100 sq ft buffer deprives him use of the front lawn.

Spaeth questioned Espeseth if he knew about the buffer before he bought the property and what the purpose of the buffer was. Espeseth stated that he kind of knew, but the buffer had just been planted and stated that the way the buffer was laid out, only protected one-half of the lot. Espeseth stated that the water quality of the lake has improved with the placement of the riprap and has stopped the erosion of the bank. Brufloft asked for clarification on the size of the buffer and why Espeseth felt the size of the buffer should be reduced. Espeseth stated that the riprap takes up 720 sq ft of area and the new proposed buffer will be 380 sq ft, totaling 1100 sq ft. Brufloft stated that the riprap is allowed and is an improvement, but it is not a replacement for the vegetative buffer. Schutz stated that due to the slope of the land, the vegetative buffer was placed in the southeast corner of the lot to best protect the lake.

No one spoke in favor of the application. No one spoke against the application. Letters of support were received from Russell and Nancy Hagen, Tom Rosendahl, and Don Kounovsky. At this time, testimony was closed and further discussion was held.

Further discussion was held regarding the size of the buffer, the purpose of the buffer, better diversion of run off, the riprap protecting the bank from the lake, but the absence of the buffer protecting the lake from run off, riprap not replacing the need for a buffer,

Motion: Spaeth made a motion to deny a variance to allow riprap to replace a vegetative buffer as required through Shoreland Mitigation based on the fact that the vegetative buffer was implemented to protect the lake from storm water run off from the lot and that riprap does not replace the required mitigation. Boatman second. All in favor. Motion carried. Variance denied.

THIRD ORDER OF BUSINESS: Vernon and Genece Hanson. Request a Variance to construct an addition onto a garage 22' from Co ROW on the property described as: Lot 54, FLOYD LAKE BEACH, Sec 15, TWP 139, Range 41, Detroit TWP. PID Number: 08.0952.000. The property is located on Big Floyd Lake at 19872 Co Rd 131.

Hanson explained the application to the Board. They have recently retired and moved to this property full time. The addition would allow for a legitimate two-car garage, the jog in front would allow the depth needed. The current parking area will be replaced with grass and pervious pavers.

Schutz questioned if the two (2) feet could be added to the back of the garage. Hanson stated that the septic mound is located right in back of the garage. Kessler questioned if Hanson had applied for the original variance that stated that the garage doors could not face the road. Hanson stated that he was, but stated that the Zoning Office, at that time, stated that the stipulation was ridiculous and implied that he could build the garage with the doors toward the road, so that is how he built it.

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 was held.

Discussion included the current setback of the structure, proposed setback of the structure, the way in which the garage is entered from the road, impervious lot coverage, and how to further mitigate run off.

Motion: Schutz made a motion to approve a variance to allow an addition onto an existing garage twenty-two (22) feet from the county road right of way based on the fact that there is still ample room to park a vehicle off the road right-of-way and the addition is a modest, practical addition to better utilize the garage with the stipulation that either the concrete located in the shore impact zone be removed or a vegetative buffer with a minimum size of 250 sq ft, approved by the Zoning Office, be implemented to protect the lake from runoff from the cabin and lot. Chirpich second. All in favor. Motion carried. Variance approved.

FOURTH ORDER OF BUSINESS: Michael and Kristin Schiltz. Request a Variance to construct an attached garage onto a nonconforming dwelling, which is 76' from the OHW for the property described as: Lots 19 and 20, OAK GROVE, Sec 07, TWP 138, Range 41, Lake View Township. PID Number 19.1536.000. The property is located on Fox Lake at 14273 W Lake Sallie Drive.

Schiltz explained the application to the Board. They have a permit to construct a detached garage. The variance would allow an entryway to attach the house to the new garage. The addition would allow a safer and larger entry to the house.

The Board discussed the velocity of run off from the road and house to the lake and the need to slow the water down before entering the lake. Sherlin stated that the construction

of the garage and entryway would act like a dam to slow down the water from the road and upper portion of the lot. Schiltz stated that there are no gutters on the house, but will be putting gutters on all the buildings and directing that water into French drains.

Speaking in favor of the application was Dave Heyer. 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 was held.

Discussion included options for mitigation and slowing down the water, leaving enough room to get around the structure to access the septic tanks, and removal of the concrete patio in the shore impact zone.

Motion: Chirpich made a motion to approve a variance to allow an addition to be constructed to connect the house to a detached garage (thus an attached garage) based on the fact that the addition would help improve the water run off toward the lake by creating a dam to slow the water on the upper portion of the lot with the stipulations that all structures must be guttered and the run off diverted into retention areas; the lakeside of the house be terraced or bermed to slow the velocity of water run off and the concrete patio in the shore impact zone must be removed. Schutz second.

Further discussion was held on the content of the motion.

Chirpich amended his motion to say: approve a variance to allow an addition to be constructed to connect the house to a detached garage (thus an attached garage) based on the fact that the addition would help improve the water run off toward the lake by creating a dam to slow the water on the upper portion of the lot with the stipulations that all structures must be guttered and the run off diverted into retention areas; the lakeside of the house be terraced or bermed to slow the velocity of water run off, the applicant is willing to remove concrete patio in the shore impact zone, and the storm water management plan must be done by a professional. Schutz second the amended motion. All in favor. Motion carried. Variance approved.

FIFTH ORDER OF BUSINESS: Clarence and Julie Field. Request a Variance to construct a storage building exceeding 2400 sq ft within 1000 ft of OHW for the property described as: PT S1/2 SE1/4 SW1/4 NW1/4: COMM W QTR COR SEC 20 TH E 662.82' TO POB; TH E 624.50', N 321.51', W 627.73', TH S 319.41' TO POB Sec 20, TWP 139, Range 41, Detroit Township. PID Number 08.0321.001. The property is located within the shoreland district of Brandy Lake at 23996 Clark Road.

Field explained the application to the Board. The large structure is required to house the materials and equipment for their electrical business and would actually like to have a building 6000 sq ft in size rather than 5000 sq ft.

Brufloft questioned Field about the excavation already done. Field stated that they did prep work, but did not realize there was a size limitation. Chirpich questioned how he arrived at the setback from Brandy Lake. Field stated that he took the measurements

from an aerial photo. Discussion was held as to whether or not the wetland was part of the lake. Moltzan stated that the DNR had responded and stated that the wetland and lake are separated by a strip of land, thus Brandy Lake does not go up to the road as it appeared at the site inspection.

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 was held.

Discussion included that fact that the road acts as a dam, not allowing water to the wetland or Brandy Lake, there is no location on the lot to meet the 1000 ft setback, there is a conditional use permit on the property allowing for commercial use of the property, the size of the structure is practical for the nature of the business, one large building is more reasonable for the property than several smaller buildings, trees could be planted to screen the building and smaller buildings would not accommodate the equipment of the business.

Motion: Spaeth made a motion to approve a variance to allow a 6000 sq ft building within the shoreland district based on the fact that the use is reasonable and consistent with the conditional use permit on the property and the fact that the road acts as a dam, not allowing any run off to enter the wetland or lake across the road, with the stipulations that three (3) rows of trees be planted on the south and east side of the building within one year from the completion of the project and that the building cannot be any closer than 700 feet from Brandy Lake. Chirpich second. All in favor. Motion carried. Variance approved.

SIXTH ORDER OF BUSINESS: Jay Schurman. Request a Variance to construct an attached garage addition to be 37' from the OHW and 20' from the Centerline of TWP Road for the property described as: Lot 20, CHIPPEWA SHORES 1ST, Sec 06, TWP 140, Range 40, Holmesville Township. PID Number: 16.0331.000. The property is located on Buffalo Lake at 27199 Chippewa Shore Road.

Schurman explained the application to the Board. They want to build a garage with living quarters to better utilize the cabin as a year round home.

Discussion was held regarding the size of the lot, location of the current cabin in relation to the road, bluff, and shore impact zone. Kessler stated that 13 feet of the cabin lies within the shore impact zone.

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 was held.

Discussion included the lot size, setbacks, what is reasonable use, when is there too much building for a lot, safe setback from the road, and negative impacts of structures in the shore impact zone. Sherlin stated that an addition in the shore impact zone is contrary to

the Becker County Zoning Ordinance and Comprehensive Plan, that there is reasonable use of the property and the structure could be replaced under State Law. Brufloft commented that one should check out what can be done with the property prior to making it a year round residence. Chirpich questioned if not having a garage in Minnesota was a practical difficulty. Sherlin stated that no expansion can be done in the sensitive shore impact zone.

Motion: Spaeth made a motion to deny the variance to construct an attached garage onto an existing structure thirty-seven (37) feet from the ordinary high water mark of the lake based on the fact that the lot is too small to accommodate the addition, the structure is located in the shore impact zone and too close to the road, expansion in the shore impact zone is against the intent of the Becker County Zoning Ordinance and Comprehensive Plan, and there is reasonable use on the property. Kessler second. All in favor except Chirpich. Majority in favor. Motion carried. Variance denied.

SEVENTH ORDER OF BUSINESS: Nathaniel Tweten. Request a Variance to construct a dwelling 50' from the OHW & 40' from the ROW for the property described as: Lot 1, Block 4, Summer Island, Sec 06, TWP 138, Range 42, Lake Eunice Township. PID Number 17.1199.000. The property is located on Leif Lake northwest of and next to 15361 Summer Island Rd.

Jay Tweten explained the application to the Board. They would like to build a garage with living quarters above the garage on the property, being 50 ft from the OHW and 40 ft from the road right-of-way. Tweten presented the Board with a new drawing, showing the portion of the road that was vacated and added to his property and the proposed location of the house.

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 was held.

Discussion was held regarding the size of the original lot, size of the portion vacated, setbacks, how the garage would be entered, and possible mitigation.

Spaeth stated that this is a substandard size lot of record; the road vacation has made this lot more desirable, the request is reasonable and the road is a minimally traveled road.

Motion: Boatman made a motion to approve a variance to construct a dwelling fifty (50) feet from the ordinary high water mark of the lake and forty (40) feet from the road right of way based on the fact that it is a reasonable use of the substandard lot with the stipulation that fifty (50) percent of the shoreline must be mitigated with a vegetative buffer approved by the Zoning Office. Chirpich second. All in favor. Motion carried. Variance approved.

EIGHTH ORDER OF BUSINESS: William Joy. Request a Variance to construct a detached garage 70' from the Ottertail River for the property described as: AUD LOT 9 EAST OF WEST MANY POINT RD EX PT S OF FOLL DESC LINE: BEG 239.71' N OF NW COR GOVT LOT 5, TH SE 417.83' TO N LN LOT 5 & E TO LK, Sec 30, TWP 142, Range 38, Round Lake Township. PID Number 25.0463.001. The property is located on Many Point Lake at 35799 Whaleys Rd.

Joy explained the application to the Board. He would like to construct a detached garage. The garage would meet the road, side yard and lake setback, but does not meet the required setback from the Otter Tail River. There is a natural 10 ft high berm that protects the river and there is about 50 feet of grass that separates the proposed garage from the lake. The property had two dwellings, one of which has been removed.

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 was held.

Discussion included the fact that there was a natural berm 10 ft high, the berm was created when a man made ditch was constructed for the river to flow through to the lake, all other setbacks are met, there is a natural drainage area on the south side of the property and Joy has planted some trees closer to the lake.

Motion: Kessler made a motion to approve a variance to allow a detached garage to be constructed seventy (70) feet from the ordinary high water mark of the Otter Tail River based on the fact that the lot is too narrow for any structure to meet the river setback, all other setbacks can be met, one dwelling has been removed from the property, this is a reasonable request and use of the property and there is a natural berm protecting the river. Spaeth second. All in favor. Motion carried. Variance approved.

NINTH ORDER OF BUSINESS: Informational Meeting. The next informational meeting is scheduled for Thursday, December 6, 2012 at 7:00 am in the Third Floor Meeting Room of the Original Courthouse. The December meeting will be held providing we do not receive a large quantity of snow within the next two weeks.

Since there was no further business to come before the Board, Schutz made a motion to adjourn the meeting. Chirpich second. All in favor. Meeting adjourned.

Jim Brufloft, Chairman

ATTEST

Patricia Swenson, Zoning Administrator