

**Becker County Board of Adjustments
December 13, 2012**

Present: Bill Sherlin, Lee Kessler, Al Chirpich, Jim Bruflodt, Steve Spaeth and Debi Moltzan.

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

Bruflodt explained the protocol of the meeting and Spaeth read the criteria, which must be met to have a variance granted.

FIRST ORDER OF BUSINESS: Nathaniel Tweten. Request to amend variance granted November 8, 2012.

Jay Tweten explained that the DNR spotted the OHW and it was approximately 20 ft closer to the road than thought. In order to keep the house 50 ft from the OHW, the road setback would have to be reduced from 40 ft 20 ft.

Discussion was held regarding the size of the lot and the fact that the Board found enough practical difficulties at the last meeting to grant the variance, the decision now was to determine whether or not the road setback should be reduced further. The garage would be entered from the side, so there would be plenty parking off the road right of way. 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.

Spaeth felt that the road setback should reflect the revised sight plan, angling the setback, which would help limit the size of the structure. The site plan showed 20 ft and 39 ft from the right of way. Tweten stated that, he had read the plan wrong, the plan actually shows 30 ft and 20 ft.

Motion: Spaeth made a motion to amend the variance granted in November 2012 (Document Number 602844) to read: approve a variance to construct a dwelling fifty (50) feet from the ordinary high water mark of the lake and twenty (20) feet from the road right of way on the Southeast corner of the building and thirty (30) feet of the Northeast corner of the building 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, changing the right of way setback from forty (40) feet to twenty (20) feet on the southeast corner and thirty (30) feet from the northeast corner . Sherlin second. All in favor. Motion carried.

SECOND ORDER OF BUSINESS: Stephen and Julie Blaske. Request a Variance to construct a detached accessory structure twelve (12) feet from the right of way of a restrictive drive for the property described as: Tax ID number: 150420000, PT LOT 4 GORANSON BCH, N OF LN COMM NE COR LOT 5 & SW LN RESTRICTED

DRIVEWAY, E 31.72', N 25' TO POB; W 186.41' TO LIT TOAD LK & TERMINATING. Section 24 Township 139 Range 039; Height of Land Township The property is located on Little Toad Lake at 40332 Little Toad Road.

The Blaske's explained the application to the Board. They would like to replace the old shed with a new garage. The 'road' is a driveway that services five (5) property owners. Their garage would be the same distance from the road as the other garage and there would still be enough room for vehicles and emergency personnel to use the road.

Chirpich questioned if the garage would be entered from the road and if it was where they would park. Blaske stated that they would enter from the road and they have a parking area to the side of the garage.

Discussion was held on switching the parking area with the proposed garage to get the garage further from the road; the fact that the road is a public restrictive drive, not a dedicated public road; there is minimal traffic on the road; the road does not have the right of way or built to township specifications for the township to take over maintenance and probably never would be; and that the restrictive drive is more of an easement than a public road.

No one spoke either in favor of or in opposition to the application. Written correspondence was received from Jeff Bulger, in favor of the application, and Craig Hall (Height of Land Township Supervisor), in opposition to the application. At this time testimony was closed and further discussion held.

Further discussion included removing extra trees to move the structure back; if anything would be gained by switching the location of the garage; the current parking area; the uniqueness of the lot being serviced by a restrictive drive and the garage would not alter the character.

Motion: Sherlin made a motion to approve a variance to construct a garage twelve (12) feet from the right of way of a restrictive drive based on the fact that this is reasonable use for this property and that the practical difficulty is that the lot is a substandard size lot with limited area for alternative options. Spaeth second. All in favor except Chirpich. Majority in favor. Motion carried. Variance approved.

THIRD ORDER OF BUSINESS: Glen Erickson. Request an after the fact Variance to allow a guesthouse to exceed the allowable 700 sq ft size limitation for the property described as: Tax ID number: 28.0092.000, The Northwest Quarter of the Southwest Quarter (NW ¼ SW ¼), Section 17, Township 140, Range 38, Shell Lake Township. The property is located within the shoreland district of Island Lake at 25566 E Island Lake Rd.

At this time, Chirpich recused himself from the Board.

Erickson explained the application to the Board. It was his fault that he moved in the cabin, but did not think there would be any problems. The cabin was to be moved onto a lot on Shell Lake, but that deal fell through. Then the cabin was to go to Hatfield's Resort, but the resort backed out, so he placed the structure at this location.

Bill questioned the original application for a storage shed. Erickson stated that it is like a storage shed because it does not have water, sewer or electricity connected to it. Spaeth questioned why it wasn't made into a storage building. Erickson stated that he did not think it would survive the move and would have to be used solely for storage, but after the move, the structure was salvageable for a cabin. Sherlin stated that if the kitchen were to be removed, it could remain as storage with bunk quarters or if a portion of the cabin removed, it could remain as a guesthouse, but you cannot have two houses on the property.

Speaking in opposition to the application was Terry Kalil, Jennifer Thompson and Kevin Thompson. Their concerns were the inaccuracy of the application, what had been permitted in the past, the lack of information regarding setbacks, the size of the structure and the fact that it did not meet any of the criteria for granting a variance and that the variance should be denied. There was no written correspondence either for or against the application. At this testimony was closed and further discussion was held.

Spaeth stated that there were several options that could be done without granting a variance such as subdividing, gutting the structure so it could be used for storage, or reducing the size to be used as a guesthouse. Sherlin agreed that there were other alternatives.

Motion: Spaeth made a motion to deny the variance to allow a guesthouse to exceed 700 sq ft based on the fact that no practical difficulties could be found and that there are alternatives, as noted in the minutes, which could be done without a variance. Sherlin second. All in favor, except Chirpich, who abstained from voting. Variance denied.

FOURTH ORDER OF BUSINESS: Timothy Corwin. Request a Variance to construct an addition onto a nonconforming structure that is 38 ft from the OHW, with the addition being 51 ft from the OHW for the property described as: Tax ID Number: 191308000, Lots 26 & 27, FERN BEACH 3RD ADD, Section 30, TWP 138, Range 41, Lake View Township. The project is located on Melissa Lake at 11627 Fern Beach Blv.

At this time, Chirpich joined the Board and Sherlin recused himself.

Corwin, along with Fritz Zirbel and Carl Malmstrom, explained the application to the Board. Corwin stated that he has been on the lake for 60 years, and at this location for over 30 years. The existing structure is not winterized and the new addition would be winterized to allow winter use of the cabin, which could not be done before.

Chirpich question Zirbel as to why he felt it would be difficult to insulate the cabin. Zirbel explained the construction of the cabin and how physically difficult it would be,

which did not include the extreme cost of trying to do it, along with the fact that the electrical service panel is located on the outside of the cabin, which is difficult to access if one needed to.

Corwin, Zirbel and Malmstrom further explained that the character of the neighborhood would not be altered, the ice ridge would remain, the cabin would be more reasonably used by allowing winter usage, that views would not be blocked and that the addition to the side of the cabin would enlarge one existing bedroom, leaving it a three (3) bedroom home and that the addition to the back would make it a four (4) bedroom home. Malmstrom also gave a brief summary as to how this application met the criteria for granting a variance.

Speaking in favor of the application was Ken Shoyer on behalf of the Lake View Township. Written correspondence in favor of the application was received from: Sandra Alter, Celes Mickelson, Kathy Lommen, William Ristvedt, and Lake View Township. At this time, testimony was closed and further discussion was held.

Chirpich stated that new information has been presented tonight, which was not available at the October meeting, in which the variance was denied. Chirpich stated that the property has reasonable use with the exception that the cabin is not winterized. Spaeth stated that after the recent training session, the Board better understands what can be approved and what needs to be denied and stipulations can be placed on the variance.

Motion: Spaeth made a motion to approve a variance to allow an addition onto a nonconforming structure based on the fact that the test of practical difficulties and the lot is large enough to accommodate the addition has been met with the stipulation that the variance is valid for only the addition and that if the house is destroyed or removed, the variance is null and void and the new structure must meet all setbacks, and that mitigation is accomplished by the current ice ridge, which must remain, controls any run off from entering the lake. Kessler second. All in favor, except Sherlin, who abstained from voting.

FIFTH ORDER OF BUSINESS: Jay Schurman. Request a Variance to construct a second story addition onto a nonconforming structure 37 ft from the OHW and 56 ft from the right of way of the twp road for the property described as: Tax ID number: 160331000, Buffalo Lake, Lot 20, CHIPPEWA SHORES 1ST, Section 06, TWP 140, Range 40, Holmesville Township. The property is located on Buffalo Lake at 27199 Chippewa Shore Rd.

At this time, Sherlin joined the Board.

Jay and Leah Schurman and Susan Gjersvig explained the application to the Board. Their first variance to add an attached garage was denied. Since then they have decided to use the existing cabin as the garage and build a second story onto the existing structure. Since the last time, they have found that the existing driving surface of the road is not in the road right of way. There would be an advantage to having a year round

resident on the road to keep it open, since it is privately maintained, so that emergency vehicles could access all the properties if there was the need.

Spaeth stated that when this plat was done, the reasonable use was for cabins. Schurman stated that as times change, buildings must change.

No one spoke in favor or against the application. Written correspondence in favor of the application were: Tom and Bev Foltz; Terry and Erliss Wagner; Rod and Carol Stutzman; Tom Bresnahn, Jon Ross, Darryl and Mary Beehler and Roger and Deb Lovos.

At this time, testimony was closed and further discussion was held. Discussion was held regarding the type of road, the maintenance of the road, the location of the road being in the wrong location and the size of the lot.

Motion: Chirpich made a motion to approve a variance to allow a second story onto the existing structure based on the fact that practical difficulties of the property were not created by the landowner and that there would be less impact on the property by going up with the structure and that the driving surface of the road is not in the platted location. Spaeth second. All in favor except Sherlin. Motion carried. Variance approved.

SIXTH ORDER OF BUSINESS: Lisa Jasken and Bennett Peterson. Request a Variance to construct a dwelling fifty (50) feet from the ordinary high water mark of the lake for the property described as: Tax ID number: 191728101, Lot 1 Block 1 River Hills Estates, Section 9, TWP 138, Range 41, Lake View Township. The project is located on Muskrat Lake at 25550 River Hills Lane.

Jasken and Peterson explained the application to the Board. The practical difficulty is the irregular shape of the lot, to expose the house to the lake and build a second garage, there is not enough room to meet the 100 ft setback. Spaeth stated that this is a newly platted subdivision and that the lot has over 10,000 sq ft of buildable area meeting all setbacks. Jasken stated that she would be planting trees to protect the 'finger of water'. Peterson stated that the angle of the lot reduces the buildable area.

Speaking in favor of the application was Ken Shoyer, Lake View Township. Written correspondence was received from Emily Siira, DNR in opposition to the application. At this time, testimony was closed and further discussion was held.

Brufloft stated that there is over 10,000 sq ft of buildable area meeting setbacks and that a home could be built in this area. Chirpich stated that structures are to fit the property, not the property fit the structure, the house could be refigured to fit on the lot. Sherlin stated that this is a standard size lot, recently platted and a flat lot, so no practical difficulty can be found. Brufloft stated that the DNR does not comment often, but when they do, they need to listen to the information they provide.

Motion: Chirpich made a motion to deny a variance to construct a dwelling fifty (50) feet from the ordinary high water mark of the lake based on the fact that no practical

difficulty could be found and that there is ample buildable area on the lot. Kessler second. All in favor. Motion carried. Variance denied.

SEVENTH ORDER OF BUSINESS: Next Informational Meeting.

Public Hearings will not be held during the month of January and February 2013. Depending upon the snow cover conditions, it will be decided in February if the March meeting will be held and decided in March if the April meeting will be held.

Since there was no further business to come before the Board, Spaeth made a motion to adjourn the meeting. Chirpich second. All in favor. Motion carried.

Jim Bruflo, Chairman

ATTEST

Patricia Swenson, Zoning Administrator