

Becker County Board of Adjustments
May 9, 2013

Present: Board Members Harry Johnston, Steve Spaeth, Al Chirpich, Jim Brufloft, Lee Kessler and Zoning Staff Debi Moltzan.

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

Kessler made a motion to approve the minutes from the November 2012 meeting. Spaeth second. All in favor. Motion carried. Minutes approved.

Brufloft explained the protocol of the meeting and Spaeth read the criteria under which variances could be granted.

FIRST ORDER OF BUSINESS: Jerrilynn Dunham. Request a Variance to construct an addition onto a nonconforming structure which is 84 ft. from the OHW. The new addition will be 78 ft. from the CL of a County Road. The request is for the property described as Tax ID number: 330188000, 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. The property is located on Big Toad Lake at 42996 Co Hwy 56.

Dunham explained the application. The addition would be for a bedroom and bathroom. The application was tabled from the last meeting to allow her to provide a better site plan and more accurate measurements. Discussion was held regarding the new information.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from the Becker County Highway Department, which did not have any concerns about the application. At this time, testimony was closed and further discussion was held.

Discussion included the amount of limited space on the lot; discrepancy in measurements; the shape of the lot; the request being consistent with the development in that area; the addition being a safe distance from the road; and no water run off issues.

Motion: Spaeth made a motion to approve a variance to allow an addition onto a nonconforming structure that is seventy-nine (79) feet from the ordinary high water mark of the lake, allowing the addition to be twenty-nine (29) feet from the road right of way with the stipulation that all water runoff be controlled. Chirpich second. All in favor. Motion carried. Variance approved.

SECOND ORDER OF BUSINESS: Charles Leitheiser. Request a Variance to construct an addition onto a nonconforming structure that is 51 ft. from the OHW for the property described as: Tax ID number: 081184000, Lot 4, PARADISE POINT, Section 03, TWP 139, Range 41, Detroit Township. The property is located on Big Floyd Lake at 26549 Paradise Point Rd.

Leitheiser explained the application to the Board. The cabin is 24 ft. by 36 ft. and they would like to construct an addition that would be 12 ft. by 24 ft., making the cabin more livable for a year round home.

Kessler questioned if the deck was new. Leitheiser stated that the deck was existing, but had been replaced.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from the Becker County Highway Department, which had no concerns about the application. At this time, testimony was closed and further discussion was held.

Spaeth stated that the addition would be going to the side of the structure, no closer to the lake and no closer to the road, there is adequate room to go to the side, and water runoff has been controlled. Johnston stated that with the addition, impervious coverage is only 13%. Chirpich stated that the Board measured 45 feet from the lake instead of 51 feet. Spaeth commented that the 51 feet was from the furthest corner and that 45 feet was from the closest corner, with the deck being 37 feet from the lake.

Motion: Kessler made a motion to approve a variance to allow an addition onto a nonconforming structure which is thirty-seven (37) feet from the ordinary high water mark of the lake based on the fact that it is consistent with the development in the area with the stipulation that gutters and down spouts must be placed on the structure to further control water runoff, directing the water away from the lake. Spaeth second. All in favor. Motion carried. Variance approved.

THIRD ORDER OF BUSINESS: Lynn & Virginia Marr. Request a Variance to subdivide a parcel of land on a NE Lake, attaching one parcel to an adjoining property and the remnant tract would not meet the required lot size for the property described as: Tax ID number: 190365000 Mud Lake. PT LOT 10: BEG E LN LOT 10 & PLATTED RD LINDEN PK SUBD, W 101.7', NWLY 505' TO MUD LK, NE AL LK TO N LN GOVT LOT 10, E 72', S 1052.4' TO POB. LESS .33 AC.; Sec 19, TWP 138, Range 41, Lake View Twp. The property is located on Mud Lake on Co Hwy 22.

Marr and mike Seeyle explained the application to the Board. Marr was approached by a neighbor to buy a portion of the 4.3 acres that he owns. Mud Lake is a natural environment lake requiring a lot size larger than was his entire property is. The proposal is to sell off all the lakeshore and a portion of the land to the adjoining neighbor.

Spaeth questioned the practical difficulty of the application. Marr stated that he wanted to simplify the ownership of the property and that the neighbor has a better use and access to this portion of the property. Spaeth questioned how much property would be sold and how much would be retained. Marr stated that he would like to keep about 1.5 acres and sell the remaining 2.8 acres.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from the Becker County Highway Department with no concerns about the application. At this time, testimony was closed and further discussion was held.

Discussion included the fact that no new lots would be created; one existing lot would be enlarged and one existing lot would be made smaller; all the lake shore would be kept intact; the property could not be further subdivided; difficulty of approving without knowing where the exact property lines would be and what size the lot would be.

Motion: Spaeth made a motion to approve a variance to allow a 4.8 acre tract to be subdivided, allowing one tract of land to be 1.4 to 1.6 acres in size, with no lake shore, and the remainder of the tract to be attached to the adjoining lot to the northeast based on the fact that no new lots are being created; one existing lot is being made larger and one existing lot is being made smaller with the stipulation that the 1.4 – 1.6 acre tract be configured in a way that the easterly boundary line begin at the southeast corner of that property and have a length of 360 feet and the north line adjusting to make the parcel 1.4 – 1.6 acres and the remaining property and the entire lakeshore be attached to the property just north/northeast by deed (property currently owned by Mike Seeyle) and can never be sold independently from that property (now known as the Seeyle property). Chirpich second. All in favor. Motion carried. Variance approved.

FOURTH ORDER OF BUSINESS: Reed & Valerie Satterstrom. Request a Variance to divide 2 lots into substandard size lots that do not meet the required 40,000 sq. ft. lot area and which they do not have frontage on a public road for the property described as: Tax ID number: 200455000 & 20455001, PT GOVT LOT 2: COMM W QTR COR SEC 35 TH E 2104.77' TO MC #25, NE 690.28', W 120.52', N 252.20', E 28', NE 114.49' TO POB; SW 114.49', W 28', NLY 179.35', ELY 159.65' TO STRAWBERRY LK, SLY 100' AL LK, WLY 89.64' TO POB AKA TRACT A: Also parcel # 20.0455.001, PT GOVT LOT 2: COMM W QTR COR SEC 35 TH E 2104.77' TO MC #25, NE 690.28', W 120.52', N 150.08' TO POB; CONT N 102.12', E 28', NE 114.49', E 89.64' TO STRAWBERRY LK, SLY 200' AL LK, W 203.09' TO POB AKA TRACT B; Sec 35, TWP 142, Range 40, Maple Grove Twp. The property is located on Strawberry Lake at 34655 347th Str.

Carl Malmstrom, attorney for Satterstrom, explained the application to the Board. Malmstrom stated that this is a very unusual situation. The subdivision of this lot had been administratively approved by the Zoning Office twice before, which later was found to be an error. This property had originally been created as one 100 ft. lot and one 200 ft. lot prior to zoning regulations. The lots are accessed by a private easement and the easement is 33 ft. in width. The easement road services two lots to the north of this property and two lots to the south of this property. The lots in question are lots of record. Satterstrom, like many other people, now find themselves in a trap due to regulation changes. MN State Statute 394.36 states that lots of record, in common ownership, can be sold independently if they meet the 66% rule. Each lot has the required lake frontage but one lot does not meet the lot area without a lot line adjustment. Exhibit B could be an alternative, making the smaller lot closer conforming to that 66% rule.

Further discussion was held regarding the reason why a variance is required, the fact that each lot would have standard lake frontage and 66% lot area; road access being an issue; other lots in the

area being the same size; the fact that many lots on Strawberry Lake are serviced by private easements, created prior to Zoning; and that the request seems in harmony with the area.

Malmstrom provided examples of other lots of similar road access issues that have been either granted variances or site permits.

Jeff Melin spoke with concerns about the application. Written correspondence in opposition to the application was Sheryl Toman and the Becker County Highway Department with no concerns. At this time, testimony was closed and further discussion was held.

Discussion included the fact that the lots were created pre ordinance; had the lots been put into separate ownership, this issue would not have been before the Board; and the proposed configuration of the lots would have standard lake frontage and adequate lot size.

Motion: Chirpich made a motion to approve a variance to allow two lots of record in common ownership to be subdivided so that each lot has 150 feet of lakeshore frontage and a minimum of 26,400 sq. ft. of lot area in each lot based on the fact that the property owner had no control of the ordinance changes and that lots will meet the 66% test as outlined in MN State Statute 394.36. Kessler second. All in favor. Motion carried. Variance approved.

FIFTH ORDER OF BUSINESS: Christopher Birmingham. Request a Variance to construct a new dwelling 54 ft. from the OHW instead of the required 100 ft. for the property described as: Tax ID number: 170192000, Pt Lot 2 Beg 698' W & 100' Nely of SE Cor; Sec 18, TWP 138, Range 42, Lake Eunice Twp. The property is located on Big Cormorant Lake on East Big Cormorant Road.

Birmingham, Jay Pepple and Howard Lomsdal explained the application to the Board. All setbacks and regulations have been met with the exception of the lake setback. The old 'string line' can be met but the setback average plus 20 feet cannot be met. The depth of the lot makes it difficult to place a reasonable structure on the property.

Spaeth questioned the width of the house. Pepple stated that the house would be 26 ft. wide with the majority of the house being only 24 ft. wide and a 23 ft. garage. Spaeth questioned if there are any plans for a deck. Pepple stated that if there were to be a deck, it would only be about 6 ft. wide and be behind the string line and pervious. Chirpich questioned the square footage of the home. Pepple stated that the house is 1776 sq. ft. and all impervious is 24.2% impervious. Spaeth questioned if there was a lakeside berm. Pepple stated that there was a slight berm, but it would be enhanced to better control run off. Chirpich questioned how this size house compared to the rest in the neighborhood. Pepple stated that this size of house was typical for Big Cormorant Lake and that is comparable to the houses two lots north and two lots south of this property.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from the Becker County Highway Department, with no concerns about the application, and Dimitry Kovalyov, in opposition to the application. At this time, testimony was closed and further discussion was held.

Spaeth stated that the structure will be out of the shore impact zone, the lot is a lot of record, the structure is not excessive for the neighborhood and there is a good mitigation plan. Kessler agreed.

Motion: Spaeth made a motion to approve a variance to construct a new dwelling fifty-four (54) feet from the ordinary high water mark of the lake based on the fact that the structure will be out of the shore impact zone, the lot is a lot of record, the structure is not excessive for the neighborhood, the request is in harmony with the neighborhood and there is a good mitigation plan with the stipulation that any future decks must be behind the string line created by the fifty-four (54) ft. setback. Kessler second. All in favor. Motion carried. Variance approved.

SIXTH ORDER OF BUSINESS: Scott Remmich & Judson Fortner. Request a Variance to construct an addition onto a nonconforming structure which is 25 ft. from the OHW instead of the required 100 ft. for the property described as: Tax ID number: 320359000, Lot 28, SUGAR BUSH HGHTS 1ST Subdivision, Sec 08, TWP 141, Range 40, Sugar Bush Twp. The property is located on Big Sugar Bush Lake at 32019 Sugar Creek Rd.

Fritz Zirbel explained the application to the Board. The current structure is very close to the lake and is on a steep slope. Zirbel stated that he advised the owners not to take the structure down or move it back because it would cause more damage to the lake, going up on the back 1/3 of the cabin would be the least detrimental to the environment. The addition is actually just raising a 2 ft. sidewall to a 7 ft. sidewall to make the upper story more useable.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from the Becker County Highway Department with no concerns about the application. At this time, testimony was closed and further discussion was held.

Discussion included if more damage would be done by moving the structure back, the footprint of the structure would not be changed; approximately 200 sq. ft. of the upper story would become more useable; and mitigation could be done to better protect the steep slope.

Motion: Chirpich made a motion to approve the variance to allow a second story addition onto a nonconforming structure that is twenty-five (25) feet from the ordinary high water mark of the lake based on the fact that the second story is actually just raising the roof, and adding height to an existing loft, making that area more useable, the footprint of the structure is not being changed, and the addition would not impact the lake with the stipulation that if the structure were to be removed or destroyed, a new structure could not be constructed in this location. Johnston second. Voting in favor were Spaeth, Johnston and Chirpich. Kessler voted in opposition to the motion. Majority in favor. Motion carried. Variance approved.

SEVENTH ORDER OF BUSINESS: Darin Hersch. Request a Variance to construct a deck onto a nonconforming structure 70 ft. from the OHW instead of the required 75 ft. for the property described as: Tax ID number: 080124000, PT LOT 1 BEG 697' W OF MC#24 TH SW 20' SE 156.3' NE 100' AL LK NW TO N LN SEC 9 & W TO BEG & .05 AC TR ADJ E SIDE

Sec 04, TWP 139, Range 41, Detroit Twp. The property is located on Big Floyd Lake at 25765 E Cozy Cove Rd.

Hersch explained the application to the Board. He would like to construct a deck in the northeast corner of the house, squaring off the area to the north of the sun porch.

Spaeth questioned the practical difficulty. Hersch stated that the string line had been replaced with the setback average plus 20 feet, which cannot be met. Brufloft questioned if the deck by the lake would be removed. Hersch stated that it could be considered.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from the Becker County Highway Department with no concerns about the application. At this time, testimony was closed and further discussion was held.

Spaeth stated that the deck addition would not be going closer to the lake than what is already there, there are existing gutters to control water runoff.

Motion: Spaeth made a motion to allow a deck addition onto a nonconforming structure based on the fact that the deck would not be detrimental to the area with the stipulations that the deck cannot go closer to the lake than the existing sunroom; down spouts are to be directed away from the lake; and the deck in the shore impact zone near the lake must be removed. Kessler second. All in favor. Motion carried. Variance approved.

EIGHTH ORDER OF BUSINESS: Jennifer Jacobs. Request a Variance to construct an addition onto a nonconforming structure which is 66 ft. from the OHW instead of the required 100 ft. for the property described as: Tax ID number: 030361000, PT SEC 28 & 33: PT GOVT LOT 1, 2, SEC 33,; PT GOVT LOT 7 SEC 33: COMM N QTR COR SEC 3, W 1420.76', SW 37.09' TO POB; NE 39', ELY 316.71', SLY 244.19' TO EAGLE LK, W AL LK 252.42' NW 272.46' TO POB. TRACT B.; Sec 33, TWP 138, Range 40, Burlington Twp. The property is located on Eagle Lake at 11003 Silver Star Rd.

Jacobs and Dustin Knutson explained the application to the Board. The original portion of the house is a log cabin constructed by her great grandparents by the same contractor that built the Douglas Lodge at Itasca. Jacobs recently inherited this property. The current structure is not 100 feet from the lake. The original structure cannot be changed so the only logical alteration is to add a second story to the addition that was placed onto the log cabin and the garage. The only change to the existing footprint would be a screen porch. Gutters and downspouts will be placed on the structure to control run off. There is a natural vegetative buffer that is the entire length of the lot and is about 30 feet in width.

Chirpich stated that he measured the house to be 66 ft. from the lake and the deck to be 56 to the lake. Brufloft questioned what was to happen to the steps to the lake. Jacobs stated that they would not be removed, but fixed up and fix the railings.

Speaking in favor of the application was Marion Jacobs. Written correspondence was received from the Becker County Highway Department with no concerns about the application. At this time, testimony was closed and further discussion was held.

Discussion was held regarding the mitigation, removal of the boathouse, rebuilding of the boathouse, replacement of the boathouse as allowed by the regulations created in St Paul, not mowing 3 ft. from the edge of the steep slope for better control of water runoff and placing gutters on the house.

Motion: Spaeth made a motion to approve a variance to allow a second story addition over the existing addition and garage of a nonconforming dwelling which is fifty-six (56) feet from the ordinary high water mark of the lake based on the fact that the original cabin is a historic site with the stipulation that gutters be placed on the house to control water runoff. Chirpich second.

Kessler questioned whether or not a stipulation should be placed on the variance to have the existing boathouse removed.

Spaeth amended his motion to say: approve a variance to allow a second story addition over the existing addition and garage of a nonconforming dwelling which is fifty-six (56) feet from the ordinary high water mark of the lake based on the fact that the original cabin is a historic site with the stipulation that gutters be placed on the house to control water run off with the stipulation that the existing boathouse must be removed within one year. Chirpich second. All in favor. Motion carried. Variance approved.

NINTH ORDER OF BUSINESS: Informational Meeting

The next informational meeting is scheduled for Thursday, June 6, 2013 at 7:00 am in the Third Floor Conference Room of the Original Courthouse.

TENTH ORDER OF BUSINESS: Election of Officers

Spaeth made a motion to nominate Brufloft as chairman. Chirpich second. All in favor. Motion carried. Brufloft will be chairman for 2013.

Brufloft made a motion to nominate Spaeth as vice chairman. Chirpich second. All in favor. Motion carried. Spaeth will be vice chairman for 2013.

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

Jim Brufloft, Chairman

ATTEST

Patricia Swenson, Zoning Administrator