

**Becker County Board of Adjustments  
September 12, 2013**

**Present:** Harry Johnston, Roger Boatman, Al Chirpich, Lee Kessler, Jim Bruflodt and Debi Moltzan.

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

Chirpich made a motion to approve the minutes from the August meeting. Kessler second. All in favor. Motion carried.

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

**FIRST ORDER OF BUSINESS: Peter Anderson.** Request a Variance to construct a storage structure exceeding the allowable 1200 sq. feet within two hundred (200) feet of the ordinary high water mark of the lake for the property described as: Tax ID number: 02.0223.001, Pt Govt Lot 5: Comm N Qtr Cor Sec 32 Th W 462' Al N Ln, Th SW 1320', W 52.84', SW 714.70' Th S 575.30', SW 738.22', Th SE 734.13', S 310.75', SE 465.57' Th E 32.22' To POB; Cont E 508.81' to Lit Cormnt Lk, Sly & Swly Al Lk to Sly Cor Govt Lot 5, Th Nwly & Nely Al Lk to Pnt Wly of POB, Th E 6' to POB; Section 32, TWP 139, Range 42, Audubon Township. The property is located on Little Cormorant Lake at 16248 Bird Dog Road.

Anderson explained the application to the Board. Anderson would like to construct a 3600 sq. ft. shed for the storage of his personal property under one roof instead of several smaller buildings. The property is long and narrow and shielded by trees and surrounded on three sides by water.

Kessler questioned what the practical difficulty was. Anderson stated that a building of that size was needed to store and to protect his personal property. Johnston and Chirpich stated that there would be no limit on the number of storage sheds (providing 25% impervious was not exceeded), so several smaller buildings could be constructed. Bruflodt stated that if the building could be moved to 200 ft. from the lake, a 2400 sq. ft. building could be built without a variance.

Further discussion was held regarding the topography, view from the lake, setback from the lake, and whether or not there was a true practical difficulty.

At this time, Anderson asked to table his application.

**SECOND ORDER OF BUSINESS: Stanley Johnson ET AL.** Request a Variance to construct an addition onto a nonconforming structure, which is 16.5 feet from the OWH of the

lake. The structure is nonconforming because it does not meet the required 100 ft. setback from the OHW for the property described as: Tax ID number: 02.0278.000, Lot 36 and E ½ of Lot 37, Block 1, Black Hawk Mountain Beach First Addition, Section 32, TWP 139, Range 42, Audubon Township. The property is located on Little Cormorant Lake at 16065 W Little Cormorant Rd.

Stanley and Scott Johnson explained the application to the Board. The cabin sits in the shore impact zone. There is water on two sides of the cabin and the lot is not large enough to place a structure that would not be in the shore impact zone. The request is to place an addition onto the back of the cabin, further from the lake. The cabin is not large enough for the entire family and they would also like to winterize the structure. Chirpich questioned if the structure was sound enough to add such an addition. Brufloft questioned when the retaining wall was constructed. The Johnson's stated that they replaced the existing railroad ties with retaining wall block. Brufloft asked what the practical difficulty was. The Johnson's stated that the cabin is not large enough for the entire family to use at one time. Brufloft stated that this lot is a small lot with all structures located in the shore impact zone with an unpermitted retaining wall. Stan Johnson stated that the addition would improve the looks of the cabin by changing three rooflines into one roofline. Scott Johnson stated that they would be willing to remove the storage shed by the lake. Boatman questioned if the cabin could be moved further from the lake. The Johnson's stated that they could not afford to start over.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Audubon Township, in opposition to the application. At this time, testimony was closed and further discussion was held.

Chirpich stated that the lot was not large enough to accommodate that size of a building and not be out of the shore impact zone. Brufloft stated that there is reasonable use of the property now. Chirpich stated that the entire family not being able to use the cabin at one time is not a practical difficulty as outlined in the criteria.

**Motion:** Boatman made a motion to deny the variance request based on the fact that the existing structure is severely in the shore impact zone and the addition would be detrimental to the shore impact zone. Kessler second. All in favor.

**THIRD ORDER OF BUSINESS: Curtis and Beverly Konkler.** Request a Variance to construct a garage thirty (30) feet from the state road right of way instead of the required eighty-five (85) feet due to wetlands for the property described as follows: Tax ID number: 25.0571.000, West 75 feet of Lot 1 Block 1, Posterity Beach, Section 2, TWP 142, Range 38, Round Lake Township. The property is located on Pickerel Lake at 44250 Posterity Beach Lane.

The Konkler's explained the application to the Board. They would like to construct a garage in preparation of retiring at this location. The property is 500 ft. long, with the cabin sitting in the shore zone on one hill, then water, then another hill where the garage is being proposed. The garage would be 30 ft. from the road right of way and about 30 ft. from the wetland. The garage would be two stories, with a wood working shop on the top floor.

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 topography of the land, the need for a garage in Minnesota winters, driveway access and setbacks.

**Motion:** Chirpich made a motion to approve a variance to construct a garage thirty (30) feet from the state road right of way, due to the topography and location of wetlands, this is the most suitable building site. Boatman second. All in favor. Motion carried.

**FOURTH ORDER OF BUSINESS: Steven and Susan Cariveau.** Request a Variance to construct an attached garage and screen porch onto a nonconforming dwelling which is located in the shore impact zone and construct a deck between two cabins that would extend over the property line not meeting the required side yard setback for the property described as: Tax ID number: 25.0036.011 and 25.0036.012, Pt Govt Lots 1 & 2. Pt Govt Lot 1: Comm W Qtr Cor Sec 17, N 1328.8', E 88.4' to POB; NW 171' to Rnd Lk, NE al lk 49.9' SE 142' to S Ln, W 49.9' to POB. Pt Govt Lot 2: Comm W Qtr Cor Sec 17, N 1328.8', E 88.4' to POB; E 49.9', SE 114', SW 46', NW 136.25' to POB.2008-25.46.0 and Pt Govt Lots 1 & 2. Pt Govt Lot 1: Comm W Qtr Cor Sec 17, N 1328.8' to POB; E 88.4', NW 171' to Rnd Lk, SW al Lk to W Ln Govt Lot 1, S to POB. Pt Govt Lot 2: Comm W Qtr Cor Sec 17, N 1328.8' to POB; E 88.4', SE 136.25' to rd, SW 154.94' al rd to W Ln, N 194.4 to POB. 2008 - 25.0040.000, Section 17, TWP 141, Range 38, Round Lake Township. The property is located on Round Lake at 31650 E Round Lake Road.

Cariveau's explained the application to the Board. They would like to construct an attached garage onto the cabin and construct a deck to join the two cabins.

Johnson stated that the larger cabin is 50 ft. from the lake, but the deck is in the shore impact zone 40 ft. from the lake. Kessler stated that the lots are treated as two separate lots and the construction of the deck would cause the deck structure to go over the lot line, not up to the lot line. Chirpich questioned if there was a garage on each lot. Cariveau stated that there was a garage on one lot and a bunkhouse on the other lot.

No one spoke in favor of the application. No one spoke against the application. Written correspondence in opposition to the application was received from: June Bergquist, David Haith, Bill Bergquist, Ruth Bergquist and June Bergquist. At this time testimony was closed and further discussion was held.

Brufloft stated that there are two lots, each lot with a cabin, so the lots must be treated independently, not as one lot. Further discussion included the need for a new compliance inspection on the septic system; lot line setbacks; joining of the two lots; lake setbacks and use of the cabins. Discussion also included the possible removal of the lakeside deck to get the structure out of the shore impact zone.

**Motion:** Johnston made a motion to approve a variance to construct a garage and screen porch onto a nonconforming structure (structure located on PID Number 25.0036.012) with the stipulation that the lakeside deck be removed based on the fact that with the deck removal, the entire structure would be located outside the shore impact zone. Kessler second. All in favor. Motion carried.

Boatman made a motion to deny the construction of a deck to connect the two cabins based on the fact that the deck would be constructed over the side property line (structures located on PID Numbers 25.0036.012 & 25.0036.011). Chirpich second. All in favor. Motion carried.

**FIFTH ORDER OF BUSINESS: David and Margaret Schiller.** Request a Variance to construct an addition onto a nonconforming dwelling, which is located 82 ft. from the OHW instead of the required 100 ft. and construct an addition onto an existing garage which would exceed the allowable 1200 sq. ft. located within 200 feet of the OHW of a lake for the property described as: Tax ID number: 16.0232.000, 34-140-040 Pt Govt Lot 5: Comm Wly Cor Lot 1 Blk 1 Silver Bay Th Swly 375.11' to POB; NW 73.88', Nely 302.08', Sely 314.72' to Cotton Lk, Swly 300' al lk, Nwly 269.24' to POB aka Tract F, Section 34, Township 140, Range 40, Holmesville Township. The property is located on Cotton Lake at 32757 West Cotton Lake Road.

Schiller explained the application to the Board. He would like to place an addition onto the house, which the addition would make the 100 ft. setback; replace the existing deck with a screen porch and construct an addition onto an existing garage. There have been water issues with the existing structure, so the front deck was removed to fix sill plates and improve drainage away from the house. Replacing the deck with a screen porch would help straighten rooflines and improve drainage. The addition to the garage would be setback 4 ft. and would not be seen from the lake. Due to the topography of the lot and the location of the proposed septic system, this is the logical place. It does not make sense to build a small free standing structure.

Johnston stated that the current garage is 141 ft. from the lake and the addition would be 197 ft. from the lake and the porch would not change the footprint of the house since the deck had already been in that location.

Brufloft stated that with the topography of the lot, he could see where there had been a water issue.

No one spoke in favor of the application. No one spoke against the application. Written correspondence in favor of the application was received from: Benjamin and Jaclyn Smith; Louise and Samy Karaz; Dale and Audrey Markuson; Ron and Laura Noeson; and Richard and Linda Dahlin. At this time, testimony was closed and further discussion was held.

Discussion included the fact that the house addition and the garage addition met setbacks; the porch addition replaced an existing deck and would not go closer to the lake than the existing house; and gutters were already being planned for drainage control.

**Motion:** Chirpich made a motion to approve the variance to construct an addition onto a nonconforming dwelling, which is located 82 ft. from the OHW instead of the required 100 ft. and construct an addition onto an existing garage which would exceed the allowable 1200 sq. ft. located within 200 feet of the OHW of a lake based on the fact that there would be no negative impact to the lake with the stipulation that gutters must be placed on the house to control drainage. Kessler second. All in favor. Motion carried.

**SIXTH ORDER OF BUSINESS: Thomas and Cynthia Nagle.** Request a Variance to construct a dwelling fifty-three (53) feet from the OHW of the lake instead of the required one hundred (100) feet for the property described as: Tax ID number: 17.0725.000, LOT 4 Haugen Beach, Section 30, TWP 138, Range 42, Lake Eunice Township. The property is located on Big Cormorant Lake at 17004 Haugen Beach Road.

Cindy Nagle and Chris Hawley explained the application to the Board. They were trying to understand what required setbacks would apply to this lot before designing a house. Since there is a vacant lot on the south of this property, the setback average would not allow enough room to build a decent size house. The front of the proposed house would be 65 ft. (SE cor) and 75 ft. (NE cor) from the lake; the lot would be raised slightly and gutters would be placed on the house to control drainage.

No one spoke in favor of the application. No one spoke against the application. Written correspondence in opposition to the application was received from: Mark Bryan. At this time, testimony was closed and further discussion was held.

**Motion:** Kessler made a motion to approve a variance to construct a dwelling with a setback of seventy-five (75) feet from the OHW on the Northeasterly corner of the dwelling and sixty-five (65) feet from the OHW on the Southeasterly corner of the dwelling based on the fact that the lot is a substandard size lot with the stipulations that the dwelling must be guttered with the storm water being diverted to a French drain or rain garden and a shoreline vegetative buffer be planted in accordance with the County's mitigation regulations. Boatman second. All in favor. Motion carried.

**SEVENTH ORDER OF BUSINESS: Jo Streyle.** Request a Variance to construct an in-ground pool sixty-five (65) feet from the OHW of the lake instead of the required one hundred (100) feet for the property described as: Tax ID number: 17.0208.000, Lots 5 & 6 of Lot 4 Beg 33' SE, 67.46' NE & 407.9' NW of NLY Cor L13 Golb Bch 2nd th SE 134.26' SW 322.06' NW al lk to pt 310.94' SW of beg & NE to beg, Section 19, TWP 138, Range 42, Lake Eunice Township. The property is located on Big Cormorant Lake at 12512 Tanglewood Road.

Patrick Streyle explained the application to the Board by reading a letter from Jo Streyle. Streyle's health would greatly benefit from the use of a heated pool and the proposed location is between the house and the lake.

Brufloft questioned if there would be enough room beside the house for a pool. Streyle stated that there would not be enough room on the side of the house or in back of the house (due to the septic system location).

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from: Dr. Philip Johnson, in favor of the application; Dr. B. Fanous, in favor of the application; and Emily Siira, DNR, in opposition to the application. At this time, testimony was closed and further discussion was held.

Discussion included whether or not a fence would be required to surround the pool; if health issues were a practical difficulty of the property; the fact that the property can be used 100% without the installation of a pool; the fact that the pool would not be utilized during incimate weather conditions. The Board stated that they could sympathize with Streyle, but there are other options and no practical difficulty could be found.

**Motion:** Chirpich made a motion to deny the variance to construct an in-ground pool sixty-five (65) feet from the OHW of the lake based on the fact that there was no practical difficulty. Johnston second. All in favor. Motion carried.

**EIGHTH ORDER OF BUSINESS: Kendall Nygard.** Request a Variance to create a five (5) lot plat with substandard size lots to re-describe six (6) existing substandard tracts of land with

poor legal descriptions. The plat would re-describe the lots to correct twenty (20) feet overlaps in the descriptions; better describe the lot according to where the homes are situated; and dedicate the road to the public. As noted, the new legal descriptions, with lot line adjustments, would reduce the number of existing lots by one (1) lot for the property described as: Tax ID numbers: 200437000, 200433000, 200437002, 200441000, 200440000, 200442000, Parts of Government 4, Section 35, TWP 142, Range 40, Maple Grove Township. The properties are located on Strawberry Lake at and near 34191 323rd Ave.

Jim Shoeneck explained the application to the Board. Schoeneck stated that the legal descriptions for the lots involved cannot be surveyed. Some of the descriptions start at the lake; some start from the north and some start from the south with some overlapping. The lots were subdivided and described in the 1950's. The proposal would not change the location of the lots, with the exception of combining two lots for a total of five (5) lots instead of six (6) lots; it would be re-describing the lots so that they were definable and locatable. The existing 33 ft. wide road would be dedicated to the public as it exists now.

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.

Johnston stated that he cannot remember approving a plat with anything less than a 66 ft. wide public road, but this road and easement are already in existence. Johnston stated that the lots already exist and are already substandard in size; this way of description would clean up matters regarding descriptions, being able to be surveyed and their locations.

**Motion:** Chirpich made a motion to approve a variance to allow a five (5) lot plat with substandard size lots and a thirty-three (33) foot wide road based on the fact that the lots are existing and no new lots are being created; that this was the best way to re-describe existing lots with bad legal descriptions and character of the neighborhood would not be altered. Johnston second. All in favor. Motion carried.

**NINTH ORDER OF BUSINESS: Dale Nelson.** Request a Variance to construct an addition onto a nonconforming dwelling, which is forty-eight (48) feet from the OHW instead of the required 75 ft. setback for the property described as: Tax ID number: 191294000, NELY 30 ft. of Lot 5, all of Lots 6 & 7 & SWLY 10' of Lot 8, Fern Beach Third Addition, Section 30, TWP 138, Range 41, Lake View Township. The property is located on Lake Melissa at 11521 Fern Beach Drive.

Nelson explained the application to the Board. The house was constructed at the old stringline. Nelson would now like to construct an attached garage onto the house.

Kessler questioned how far the garage would be from the drainfield. Nelson stated that the drainfield would be 16 ft. from the garage. Chirpich questioned if the garage could be reduced in size to make the 20 ft. setback from the drainfield. Brufloft questioned if gutters would be installed on the house to control run off. Chirpich questioned if the playhouse would be removed since it was too close to the lot line. Nelson stated that the playhouse was existing when they bought the property and had no intentions of removing it. Kessler stated that Nelson had done a great job on the shoreline buffer.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Lake View Township in favor of the application. At this time, testimony was closed and further discussion was held.

Chirpich stated that impervious coverage was not an issue and the addition would be further from the lake than the existing structure. Johnston stated that the garage could be cut down 4 ft. to meet the required setback, but that would reduce the functionality of the garage.

Kessler made a motion to approve a variance to construct an addition onto a nonconforming house and sixteen (16) feet from the drainfield based on the fact that the existing house meets and was built by stringline, which has since been eliminated and replaced with the setback average plus twenty (20) feet regulation with the stipulation that the entire house and addition be guttered and the storm water be diverted to a rain garden. Johnston second. All in favor. Motion carried.

At this time, Pete Anderson asked to address the Board regarding his variance request. Anderson had thought it over, and felt that he had asked to table too quickly and would like to change his request to a 2400 sq. ft. building 100 ft. from the lake.

Discussion was held regarding the fact that if Anderson went back to the property and did some measuring, there may be a location for a 2409 sq. ft. structure without a variance. Johnston felt there was room to build multiple 1200 sq. ft. structures; however, this area is isolated from other lots and from the lake.

**Motion:** Boatman made a motion to approve a variance to construct a 2400 sq. ft. storage structure no closer than one hundred (100) feet from the OHW of the lake based on the fact that the structure would not be detrimental to the surrounding area and that the original request for a 3600 sq. ft. storage building less than 200 feet from the OHW be denied. Chirpich second. All in favor. Motion carried.

approved

**TENTH ORDER OF BUSINESS: Informational Meeting.** The next informational meeting is scheduled for Thursday, October 3, 2013 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, Kessler made a motion to adjourn the meeting. Chirpich second. All in favor. Motion carried.

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Jim Bruflo, Chairman

ATTEST

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Patricia L. Swenson, Administrator