

**Becker County Board of Adjustments
October 10, 2013**

Present: Members Harry Johnston, Lee Kessler, Al Chirpich, Steve Spaeth, Jim Brufloft, Roger Boatman and Debi Moltzan, Planning & Zoning.

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 September 2013 meeting. Chirpich second. All in favor. Motion carried.

Brufloft explained the protocol of the meeting. Spaeth read the criteria needed to grant a variance.

FIRST ORDER OF BUSINESS: Howard & Sheri Swanson. Request a variance to construct an addition onto a nonconforming structure thirty-six (36) feet from the OHW of a lake instead of the required one hundred (100) feet, and construct a basement under a portion of the existing structure for the property described as: PID Number: 320045000, PT LOT 3, BEG 1138.5' SE OF NE COR LOT 3 TH SW 143' TO RD SE 103.2' NE 168' & NW 100' AL LK TO BEG; Sec 02, TWP 141, Range 40, Sugar Bush Township. The property is located on Strawberry Lake at 32396 Strawberry Court.

Swanson and Ron Muff explained the application to the Board. The addition would be placed on the road side of the cabin with a basement going under the west twelve (12) feet of the structure due to the floor joists rotting. The addition would be for an entry way and for the stairway leading into the basement. The basement would act as a storm shelter along with getting the water lines below frost level so they can use the cabin for a longer period of time.

Kessler asked if they were thinking about removing any of the decking toward the lake. Swanson stated that they would like to repair and maintain the deck, not necessarily remove the decking.

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

Spaeth stated that the structure does sit too close to the lake and is in the shore impact zone, but there is no other place to move the cabin. Moving the cabin further back from the lake could cause more damage to the lake. Brufloft stated that the expansion is a minimal expansion to make the structure more useable. Spaeth stated that if the structure is not fixed, it will become

unusable. Johnston stated that the work would not alter the character of the neighborhood and that he would like to see some of the decking removed, but not make it a condition of the variance.

Motion: Johnston made a motion to approve a variance to construct an addition onto the roadside of a nonconforming structure thirty-six (36) feet from the OHW of a lake instead of the required one hundred (100) feet, and construct a basement under the west twelve (12) feet of the existing structure based on the topography of the lot. Chirpich second.

Further discussion was held regarding the water run-off and deck.

Johnston amended his motion to say: ‘approve a variance to construct an addition onto the roadside of a nonconforming structure thirty-six (36) feet from the OHW of a lake instead of the required one hundred (100) feet, and construct a basement under the west twelve (12) feet of the existing structure based on the topography of the lot with the stipulations that gutters be placed on the dwelling to divert water run-off away from the lake and that if the deck becomes un-repairable, the decking must be removed and brought into compliance with current Zoning regulations for decks, stairways and landings’. Chirpich second. All in favor. Motion carried. Variance approved.

SECOND ORDER OF BUSINESS: Deon & Sheri Softing. Request a variance to construct a dwelling twenty-five (25) feet from the centerline of a township road instead of the required fifty-three (53) feet from the centerline for the property described as: Tax ID number: 190784000, Lot 8, Auditor’s Plat; Section 08, TWP 138, Range 41, Lake View Township. The property is located on Munson Lake at 24320 Woodland Lane.

Softing explained the application to the Board. He would like to remove the existing structure and build a permanent home. Softing presented a different site plan, moving the house further from the road, but closer to the lake. The new proposal would be for a dwelling ninety-one (91) feet from the OHW and twenty-five (25) feet from the edge of the driving surface of the road.

Spaeth questioned if Softing had a mitigation plan. Softing stated that he did not as of yet. Spaeth then questioned if a deck would be constructed on the house. Softing stated that if a deck were to be constructed, it would not go any closer to the lake than the projection of the house.

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

Discussion included topography of the lot, setbacks of structures in the general vicinity, septic location and water control. Moltzan explained that since the Zoning Office had not received a site evaluation on the septic system, it is not known whether or not the septic system would meet all the required setbacks or the proposed location would be the final location of the system. Discussion was also held regarding the setback from the road. Consensus of the Board was that due to the width of the driving surface of the road and the fact that the right of way is 15 feet on each side of the driving surface, that a twenty-five (25) foot setback from the edge of the road should meet the required twenty (20) foot setback from the right of way or be very close to meeting it.

Motion: Spaeth made a motion to approve a variance to construct a dwelling ninety-one (91) feet from the ordinary high water mark of the lake and twenty-five (25) feet from the edge of the road driving surface based on the topography of the lot with the stipulation that all water run-off from the structure be controlled by storm water management practices. Boatman second. All in favor. Motion carried. Variance approved.

THIRD ORDER OF BUSINESS: Greg Peterson. Request a Variance to construct an addition onto a nonconforming structure which is sixty (60) feet from the OHW instead of the required seventy-five (75) feet for the property described as: Tax ID number: 080963000, Swly Pt Lot 66 Being 26' on LK & 38 ft at rear & Lot 67 Ex Swly 16 ft, 1st Add-Floyd LK Bch; Sec 15, TWP 139, Range 41, Detroit Township. The property is located on Big Floyd Lake at 19774 Co Rd 131.

Greg and Katie Peterson explained the application to the Board. The house is a two bedroom house. The addition would be for a computer room/office/sewing room. The addition would be constructed on the road side of the house. They are planning on installing French drains to control any run off.

Del Larson, from the lake association, was concerned about run off toward the neighboring property. There was no written correspondence. At this time, testimony was closed and discussion was held.

Kessler and Spaeth agreed that the plan was a good proposal and conforms to the neighborhood.

Motion: Spaeth made a motion to approve a variance to construct an addition onto a nonconforming structure which is sixty (60) feet from the OHW instead of the required seventy-five (75) feet based on the fact that it is in harmony with the neighborhood with the stipulation that the house be guttered and the storm water be put into French drains. Kessler second. All in favor. Motion carried.

FOURTH ORDER OF BUSINESS: Roxanne Jahn Trust. Request a Variance to construct a dwelling to be forty (40) feet from the OHW instead of the required one hundred (100) feet, & forty (40) feet from a Co ROW instead of the required forty-five (45) feet. Also construct a garage forty-three (43) feet from the OHW instead of the required one hundred (100) feet & forty (40) feet from a Co ROW instead of the required forty-five (45) feet for the property described as: Tax ID number: 170311000, Pt Lots 2 & 3 Beg at SE Cor L5 Newport Bch TH SW 84.89', SW 25' to POB; SW 95.03', SW 155.43', NE 148' TO LK, Ely al LK to PT 25' W of Wly Ln Lot 5 Newport Bch, SE 88.17' to Beg; Sec 27, TWP 138, Range 42, Lake Eunice Township. The property is locate on Lake Maud at 20584 Co Rd 22

Bill and Roxanne Jahn explained the application to the Board. The lot is a long narrow lot. They would like to build a year round home in the same location as the existing structure. The new structure would be one foot wider than the existing and twelve (12) feet longer than the existing structure. The garage would be built in line with the house. The garage would be situated so that the entrance to the garage would be parallel with the road, so they would not be backing out onto the road.

Spaeth questioned if the boat ramp would be removed. Jahn stated that a portion of the concrete would be removed, about 500 square feet of concrete. Chirpich questioned if they would be restoring the berm. Jahn stated that they had ripped the shoreline last year. Jahn also stated that gutters would be placed on the new structures.

Brufloft stated that the Board pays close attention to the land and looks for ways to improve properties. In this case, it is the boat ramp, which acts like a funnel for water to run into the lake. Jahn stated that they did not use it as a boat ramp, but as lake access. Chirpich stated that the area could be restored and still be allowed lake access.

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.

Chirpich felt that a year round home in Minnesota should be entitled to a garage and keeping the same setbacks as the existing house seems to conform to the surrounding area. Spaeth felt that entering the garage from the side (not directly from the road) was a great safety feature and felt that the boat ramp and patio should be removed and restored to control water run-off.

Motion: Chirpich made a motion to approve a variance to construct a dwelling to be forty (40) feet from the OHW & forty (40) feet from a Co ROW and construct a garage forty-three (43) feet from the OHW & forty (40) feet from a Co ROW based on the fact that the lot is substandard in size with the stipulation that the boat ramp, retaining walls adjacent to boat ramp and concrete

patio be removed and the area restored to control run off to the lake. Spaeth second. All in favor. Motion carried.

At this time, Bruflodt recused himself from the Board due to a conflict of interest with the next application.

FIFTH ORDER OF BUSINESS: Kevin & Carol Shipley. Request a Variance to construct a dwelling forty-eight (48) feet from the OHW instead of the required seventy-five (75) feet for the property described as: Tax ID number: 081191000, Lot 10, Paradise Point; Sec 03, TWP 139, Range 41, Detroit Township. The property is located on Big Floyd Lake at 26493 Paradise Point Rd.

Kevin and Carol Shipley explained the application to the Board. They would like to demolish the existing cabin and rebuild a year round home. The new structure would be forty-eight (48) feet from the lake. The new structure would be behind the old string line but would not meet the setback average plus twenty (20) feet.

Spaeth questioned what the practical difficulty was. Shipley stated that it was a matter of fairness and reasonableness. The old string line was changed to setback average plus twenty (20) feet about eighteen (18) months ago and the setback average plus twenty (20) feet would obstruct their view. Shipley further stated that the old structure does not have gutters and down spouts. The new structure would gutters and down spouts to control water run-off.

Chirpich stated that the regulation change is to encourage everyone to move further from the lake at a quicker pace. Further discussion was held regarding lot size, impervious surface coverage, if the lot area to the east of the road was counted as part of the lot area, and string line versus setback average plus twenty (20) feet.

Speaking in favor of the application was Del Larson, lake association. There was no written correspondence either for or against the application. At this time, testimony was closed and further discussion was held.

Spaeth stated that the lot slopes to the lake and with the provisions for French drains, the lake would be protected; the current cabin has not control of run off. Shipley stated that not only are French drains proposed but natural plantings along the lake. Kessler felt that the plan was a good proposal. Johnston felt that a variance was not needed because the setback average plus twenty (20) feet could be made. Kessler felt that if the structure would be moved further back, their view would be impeded. Boatman stated that the regulation states setback average plus twenty (20) feet and there is room to meet that. Spaeth stated that the new house is proposed further back from the lake than the existing, but not the plus twenty (20) feet. Further discussion

included the setback from the road right of way and moving the structure closer to the road; conformity with the neighborhood; what was the practical difficulty and view to the lake if moved back.

Motion: Kessler made a motion to approve a variance to construct a dwelling forty-eight (48) feet from the ordinary high water mark of the lake based on the fact that it conforms to the neighborhood and improves water run off to the lake. Chirpich second. In favor of the motion was Kessler. Against the motion were Johnston, Chirpich and Boatman. Motion failed.

Chirpich made a motion to deny the application to construct a dwelling forty-eight (48) feet from the OHW instead of the required seventy-five (75) feet for the property based on the fact that the setback average plus twenty (20) feet can be met so that no variance would be required and other options exist. Johnston second. All in favor except Kessler. Majority in favor. Motion carried. Variance denied.

At this time, Bruflodt rejoined the Board.

SIXTH ORDER OF BUSINESS: John & Laura Jones. Request a Variance to construct an addition thirty-nine (39) feet from a TWP ROW instead of the required forty-five (45) feet for the property described as: Tax ID number: 100182000, Pt Lots 5 & 7 Beg at SE Cor L11 CTTN LK BCH TH S 474.02' SW 740.82' N 663.74' E 136.06 FT N 66.05' & ELY 390.64' to Beg; Sec 11, TWP 139, Range 40, Erie Township. The property is located on Cotton Lake at 33591 S Cotton Lake Rd.

John Jones explained the application to the Board. Jones wants to put an addition onto the house. Chirpich questioned why he did not reconfigure the addition so a variance would not be required. Jones stated that the architect drew up the plan this way to take advantage of the view of the lake. Jones stated that the Zoning Office stated that it would be no problem to add on and then told him he needed a variance.

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 the property is high above the road and the addition would not interfere with the maintenance of the road. Chirpich asked Moltzan to defend the Zoning Office. Moltzan stated that she had not personally worked with Jones, but others in the office had worked with Jones for several weeks trying to get the correct information from him to determine whether or not a variance would be required.

Spaeth stated that if he moved back six (6) feet, a variance would not be required and he would still have a great view. Kessler had no issues with the request. Johnston stated that the addition would not alter the character of the neighborhood. Spaeth stated that there was no need for a variance because there was plenty of room to meet setbacks.

Motion: Chirpich made a motion to approve a variance to construct an addition onto an existing structure thirty (39) feet from a TWP ROW instead of the required forty-five (45) feet based on the fact that it would not alter the character of the neighborhood. Kessler second. All in favor except Chirpich and Spaeth. Majority in favor. Motion carried.

SEVENTH ORDER OF BUSINESS: Tracy Kuehl. Request a Variance to construct a dwelling fifty (50) feet from the OHW instead of the required seventy-five (75) feet for the property described as: Tax ID number: 170785000, Lot 9, Isthmus Beach 4TH, Sec 27, TWP 138, Range 42, Lake Eunice Township. The property is located on Lake Eunice at 11715 Isthmus Beach Rd.

Jeff Boehm and Mike Lovaas, Paul Davis Restoration, explained the application to the Board. The proposal is to remove the existing cabin and replace it with a slightly larger cabin. In 2007, a garage was constructed and at that time, they knew they were going to rebuild the home and they would meet the string line. Since then, the string line was abolished and replaced with the setback average plus twenty (20) feet. They cannot make the new setback due to the location of the garage. The shed and concrete in the shore impact zone have already been removed. The new building would not be any closer to the lake than the existing structure.

Kessler questioned the pervious driveway proposal. Lovaas stated that the pervious driveway is proposed to keep lot coverage under 25%. Chirpich questioned if the house would be attached to the garage. Lovaas stated that it would be attached. Brufloft questioned which way the structure would be enlarged. Lovaas stated that it would be expanded toward the garage and on the south side and would be a one and one-half (1 ½) story structure.

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.

Chirpich questioned if the setback average plus twenty (20) feet could be met. Spaeth stated that it could be met by either reducing the size of the structure or moving the garage closer to the road. Johnston stated that Ordinance changes are to protect the lake and other properties and that there is no practical difficulty here.

Motion: Chirpich made a motion to approve a variance to allow a dwelling fifty (50) feet from the ordinary high water mark based on the fact that the existing garage does not allow the setback average plus twenty (20) feet to be met and the property is not useable without a house. The motion died for lack of a second.

Spaeth made a motion to deny the application to construct a dwelling fifty (50) feet from the ordinary high water mark of the lake based on the fact that the setback average plus twenty (20) feet can be met and no practical difficulty could be found. Chirpich second. All in favor. Motion carried. Variance denied.

EIGHTH ORDER OF BUSINESS: John & Ornetta Bergstrom. Request a Variance to allow three riparian lots with one hundred forty-three (143) feet of lake-frontage instead of the required one hundred fifty (150) feet of lake-frontage. There are currently three lots that exist, two (2) with lake-frontage and one (1) without lake-frontage. The reconfiguration would allow all three lots to have lake-frontage. Property described as: Tax ID numbers: 150108002 & 150108006= PT Govt Lot 7 & Tax ID Number 150493506= 12-139-039 LOT 5 LESS .21 ACRE TO PARCEL #15.0108.002, Twin Lake Estates, Section 11 & 12, TWP 139, Range 39, Height of Land Township. The property is located on North Twin Lake at 39888, 39912 & 39946 Wothe Dr.

John Bergstrom and Carl Malmstrom explained the application to the Board. Bergstrom bought the property in 1983. Later, he divided the 2.5 acre tract into two (2) lots, one riparian and one non-riparian. His daughter purchased a lot in Twin Lake Estates, adjoining this property. The daughter has the opportunity to acquire twenty (20) feet of lake-frontage by doing a lot line adjustment with the opposite neighbor. The Bergstrom's felt that this would be a good time to rearrange their lot lines and make three riparian lots out of the three existing lots. The overall project is twenty-one (21) feet short of making three (3) conforming lots, each lot would have one hundred forty-three (143) feet of lake-frontage. The rearrangement of the lots would eliminate the easements for septic, wells and lake access.

Spaeth questioned why three (3) conforming lots should be made into three (3) nonconforming lots. Malmstrom explained that the amount is very little, the density or use does not change and there will be three (3) residences either configuration, with no possibility of any more.

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

Johnston questioned if Bergstrom could pick up another twenty (20) feet from one of the neighbors. Bergstrom stated that he could not. Chirpich and Brufloft stated that the Board has

not made it a habit to make conforming lots nonconforming but must deal with it if it a betterment to the area. Johnston and Chirpich stated that economics alone are not a practical difficulty, in this case riparian lots are more valuable and the property owner would gain economically from riparian lots. Boatman and Brufloft stated that they could not find a practical difficulty to grant a variance.

Motion: Chirpich made a motion to deny a variance to allow three riparian lots with one hundred forty-three (143) feet of lake-frontage instead of the required one hundred fifty (150) feet of lake-frontage based on the fact that no practical difficulty exists. Johnston second. All in favor. Motion carried.

NINTH ORDER OF BUSINESS: Informational Meeting. The next informational meeting will be held November 7, 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, Chirpich made a motion to adjourn the meeting. Spaeth second. All in favor. Motion carried.

Jim Brufloft, Chairman

ATTEST

Patricia L. Swenson, Administrator