

Becker County Board of Adjustment
July 10, 2014

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

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

Kessler stated that there was a typo on the second page of the minutes. The word inhabitable should be uninhabitable and made a motion to approve the minutes from the June 2014 meeting with that correction. Johnston second. All in favor. Motion carried.

Bruflodt explained the protocol for the meeting and Spaeth read the criteria under which a variance could be granted.

FIRST ORDER OF BUSINESS: Ralph and Phyllis Sullivan. Request a Variance to construct an addition onto an existing nonconforming dwelling sixty-two (62) feet from the ordinary high water mark of the lake for the property described as: Tax ID number: 17.0888.000, Lot 9 Maple Beach, Section 22, TWP 138, Range 42; Lake Eunice Township. The property is located on Maud Lake at 20067 East Lake Maud Road.

James and Judy Erickson explained the application to the Board. In 1991, they removed the front portion of the cabin and replaced it with a new and larger addition. The old portion of the cabin was fixed with a new roof and a subfloor. There is a rodent problem so they would like to remove the old portion and replace with a larger two story addition, matching the existing lakeside portion of the cabin.

Spaeth questioned what the practical difficulty was. Erickson stated the rodent problem was the practical difficulty. Spaeth stated that the old portion of the cabin could be removed and replaced with the same size, no expansion, without a variance or since more than half of the structure was being rebuilt, the cabin could be moved back to meet the setback average plus 20 feet. Discussion was held as to why the variance was required, the fact that the structure met the stringline but not the required setback or setback average plus 20 ft., the addition would be more than double the existing cabin and water mitigation.

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 stated that the only practical difficulty shown was that more living space was wanted. Spaeth stated that he was not in favor of granting the variance because there were options that could achieve the addition without a variance.

Motion: Spaeth made a motion to deny the variance to construct an addition onto a nonconforming dwelling sixty-two (62) feet from the ordinary high water mark of the lake based on the fact that there are other options available such as removing and rebuilding the same size in

the same location or moving the entire structure to meet the setback average plus twenty (20) feet. Chirpich second. All in favor. Motion carried. Variance denied.

SECOND ORDER OF BUSINESS: Paul Grinde. Request an after the fact Variance to allow a garage to remain six (6) feet from the side lot line instead of the required ten (10) feet for the property described as: Tax ID number: 20.0336.000, Lot 9 Less 3.2 Ac, Section 18, TWP 142, Range 40; Maple Grove Township. The property is located on Net Lake at 38541 Co Hwy 34.

Grinde explained the application to the Board. The request was for six (6) feet, but the garage is actually seven (7) feet from the side lot line.

Spaeth questioned what the practical difficulty was. Grinde stated that, prior to construction; he requested a variance to be closer to the mound system. He got verbal permission to go closer. Then he was told that he just needed a letter from his neighbor to move the garage closer to the lot line. If he would have known differently, he could have moved the garage to be ten (10) feet but he was told all he needed was a letter from the neighbor. When he took the letter to the Recorder's Office to have it recorded, he was told he needed to go to Zoning. Then Zoning told him it couldn't be done that way.

Further discussion was held as to Grinde's version of what happened. Brufloft questioned Grinde as to who was to blame for the misunderstanding and Grinde answered that it was the Zoning Office's fault. The Board asked Moltzan to outline what happened from the Office's standpoint. Moltzan stated that Grinde applied for a variance to be closer to the mound system than the 10 feet required from a garage. Grinde was informed in person and by letter that the office could internally reduce this setback to 5 ft., but he would be required to be 10 feet from the side lot line. Notations in the file indicate that Grinde notified the office that the 10 feet could be met and the site permit was issued. Grinde then came into the office with the letter from the neighbor and was told that a variance was required for the side lot line and that a letter did not suffice.

Spaeth stated that he felt there was miscommunication of some type but he said/ she said will not solve the issue. Grinde stated that he is a real estate professional and went above and beyond to be in compliance.

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.

Consensus of the Board is that the Zoning Office would not set a precedence of giving out inaccurate information and something was misconstrued by Grinde somewhere along the way.

Further discussion was held regarding the size of the driveway easement, location of the garage from the side lot line, easement and septic system and number of properties serviced by the driveway easement.

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 held.

Motion: Kessler made a motion to allow a garage to remain six (6) feet from the side lot line based on the fact that the road is a dead end driveway easement and the adjoining neighbor had previously signed a statement giving Grinde permission to be closer to the side lot line. Spaeth second. All in favor except Johnson. Motion carried. Variance approved.

Chirpich commented that, at the direction of the County Attorney, a fine could have been levied as a stipulation of the variance, but the Board did not feel comfortable instilling the fine.

THIRD ORDER OF BUSINESS: Mark and Mary Hoff. Request a Variance to construct an addition onto an existing nonconforming dwelling fifty-eight (58) feet from the ordinary high water mark of the lake and eighteen (18) feet from the edge of the road. The current dwelling does not meet the 100 ft. setback from the ordinary high water mark of the lake, nor the setback average plus 20 feet and does not meet the twenty (20) foot setback from the road right-of-way for the property described as: Tax ID number: 16.0326.000, Lot 15, Chippewa Shores; Section 06, Township 140, Range 40; Holmesville Township. The property is located on Buffalo Lake at 27145 Chippewa Shore Road.

Mark and Mary Hoff explained the application to the Board. They would like to place a 26 ft. by 26 ft. second story addition on top of the existing cabin. The front porch would not be touched and an outside stairway would be constructed to the second story, existing to the west.

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

Spaeth stated that this area is a tough spot due to the location of the lake, the road and the bluff behind the cabins. Spaeth felt that the proposal was a good one and the practical difficulty is the topography of the land and location of the road.

Motion: Spaeth made a motion to approve a second story addition to an existing cabin fifty-eight (58) feet from the ordinary high water mark of the lake and fifteen (15) feet from the road based on the fact that topography allows no alternative building locations with the stipulation that all storm water runoff be controlled with mitigation measures. Chirpich second. All in favor. Motion carried. Variance approved.

FOURTH ORDER OF BUSINESS: Dennis and Sarah Richter. Request an after the fact Variance to allow a fence that is six (6) feet in height to remain seventy-five (75) feet from the road right of way instead of the required 110 feet from the road right of way. This deviates from the zoning regulation that requires fences less than the required road setback to be four (4) feet in height for the property described as: Tax ID number: 18.0003.000, PT SW1/4 OF SW1/4 BEG 82.83' N OF SW COR SW1/4;TH N 310.46',E 492.77',S 270.45' TO N LN HWY 10,W AL

HWY 419.57',S AL HWY 40',& W AL HWY 73.90' TO BEG; Section 01, Township 139, Range 43, Lake Park Township. The property is located at 15982 US Hwy 10.

Richter explained the application to the Board. Richter stated that he did not know he needed a permit for the fence. The fence was constructed as a wind break from the severe winds they experienced over the winter.

Johnston questioned how long he owned the property. Richter stated that he bought it in August 2013. Discussion was held regarding the location of the fence, the fact that the fence could be permitted in the location at a height of four (4) feet, but six (6) feet would require a variance, the oddity of the highway road right of way and distance from the right of way. Kessler and Johnston stated that the fence was closer to sixty (60) to sixty-five (65) feet from the right of way. Spaeth stated that he did not see a practical difficulty.

Motion: Spaeth made a motion to deny an after the fact variance to allow a six (6) foot high fence to remain seventy-five (75) feet from the road right of way instead of the one hundred ten (110) foot setback based on the fact that no practical difficulty exists. Johnston second. All in favor. Motion carried. Variance denied.

FIFTH ORDER OF BUSINESS: James Erb. Request a Variance to construct a storage shed and locate a recreational vehicle twenty-five (25) feet from the ordinary high water mark of the lake instead of the required one hundred (100) foot setback for the property described as: Tax ID number: 15.0039.000, South 300 feet of Lot 3 East of Hwy, Section 5, Township 139, Range 39, Height of Land Township. The property is located on Height of Land Lake on West Height of Land Drive.

Josh Kilde and Roger Schermerhorn explained the application to the Board. Kilde stated that he had a purchase agreement to buy the property if the variance was approved.

At this time, Johnston explained that he was not aware that Kilde was purchasing the property and recused himself from the Board due to a conflict of interest.

Kilde explained that he would like to purchase the property for lake enjoyment and would like to place a recreational vehicle on the lot. The property is 300 feet long, but only 90 feet deep. Kilde further stated that he would like to put in a driveway and cut down a portion of the ice ridge for better access to the lake.

Spaeth stated that the area marked for the recreational vehicle was measured to be 69 feet from the centerline of the road to the water's edge. Kessler stated that if you exclude the road right of way, there is only 36 feet to do something in.

Speaking in opposition of the application were Mr. and Mrs. Bernie Meyer. Rob Braden, DNR Wildlife spoke with great concerns of the impact of the application to the wildlife. Letters of opposition were received from: Kim Meyer, William West, Bernie Meyer, Jeff Parks, COLA, Becker County SWCD and Height of Land Township Board. At this time, testimony was closed and further discussion was held.

approved

Chirpich questioned how far the stand of wild rice went out into the lake. Braden stated about 100 yards. Spaeth stated that there was no room for development on this lot, everything would be in the shore impact zone and an additional variance would be required from the road.

Motion: Spaeth made a motion to deny the variance to construct a storage shed and place a recreational vehicle twenty-five (25) feet from the ordinary high water mark of the lake based on the fact that there is not adequate room for structures out of the shore impact zone or from the road right of way and due to the topography of the lot (wetlands). Kessler second. All in favor. Motion carried. Variance denied.

SIXTH ORDER OF BUSINESS: Informational Meeting. The next informational meeting is scheduled for Thursday, August 7, 2014 at 7:00 am in the Third Floor Meeting Room in the Original Courthouse.

Since there was no further business to come before the Board, Brufloft adjourned the meeting.

Jim Brufloft, Chairman

ATTEST

Patricia L. Swenson, Zoning Administrator