

**Becker County Board of Adjustments
August 14, 2014**

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

Vice Chairman Spaeth called the meeting to order at 6:30 p.m. Debi Moltzan took minutes.

Chirpich made a motion to approve the minutes from the July 2014 meeting. Kessler second. All in favor. Motion carried.

Spaeth explained the protocol for the meeting and Chirpich read the criteria in which a variance can be granted.

FIRST ORDER OF BUSINESS: James Vandrak. Request a Variance to construct an attached garage onto a nonconforming structure that is sixty (60) feet from the ordinary high water mark of the lake instead of the required 100 feet due to setback issues for the property described as: Tax ID Number: 170345000, PT GOVT LOTS 2 & 3 BEG AT SW COR LOT 12 PIKE BAY SHORES TH SW 60' NW 150.77' NE 100' AL SE 147.73' TO BEG; Section 30, TWP 138, Range 42, Lake Eunice Township. The project is located at 11462 Cty Hwy 11 on Big Cormorant Lake.

Vandrak explained the variance. He took the advice of the Board during the tour and had the northerly line surveyed. After the survey, it was found that the lot line runs more at an angle than he thought. To maintain a ten (10) ft. side yard setback, the garage has to be reduced to 20 ft. in width. The reduction in width still makes one corner of the garage only seven (7) feet from the side lot line due to the angle, but the majority of the garage would be ten (10) feet from the line. The garage would be the same length and in the same location with a patio in front of the garage. Boatman stated that he relooked at the property after the line was surveyed and the line runs much differently than first thought and that only one corner of the garage would encroach on the side lot line.

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 side lot line, size of the lot, location of existing house. Discussion was also held regarding wording of the motion, should the variance be granted, so that only one corner of the garage gets the variance and the rest of the garage meets the side setback.

Motion: Boatman made a motion to approve a variance to construct a 20 ft. by 32 ft. rectangular attached garage onto a nonconforming structure with a 9 ft. by 20 ft. lakeside patio directly in front of the garage, sixty (60) feet from the ordinary high water mark of the lake and the northeast corner of the garage to be seven (7) feet from the side lot line due to the size and shape of the lot. Chirpich questioned mitigation. Boatman amended his motion to read: approve a variance to construct a 20 ft. by 32 ft. rectangular attached garage onto a nonconforming structure with a 9 ft. by 20 ft. lakeside patio directly in front of the garage, sixty (60) feet from the ordinary high water mark of the lake and the northeast corner of the garage to be seven (7) feet from the side lot line due to the size and shape of the lot with the stipulation that all water runoff from the structure be diverted away from the lake. Kessler second. All in favor. Motion carried. Variance approved with modifications and stipulations.

SECOND ORDER OF BUSINESS: Bruce and Cheryl Jaster. Request a Variance to construct a dwelling 50 feet from the ordinary high water mark of the lake instead of the required 100 ft. setback or the setback average plus 20 feet for the property described as: Tax ID Number: 170729000, Lot 8 Haugen Beach; Section 30, TWP 138, Range 42, Lake Eunice Township. The project is located at 17092 Haugen Beach Rd on Big Cormorant Lake.

The Jaster's explained the application to the Board. The existing cabin would be removed and a new home constructed. The existing cabin is already behind the neighboring cabins and moving the cabin 8 -9 feet further from the lake would create a tunnel and they would be looking at the back of cabins rather than the lake. Also moving the structure further from the lake would interfere with the placement of a septic system. Jaster stated that he did not speak to the Lake Eunice Town Board to see if the septic system could be placed in the road right of way, he missed the meeting because the TWP had changed their meeting date due to elections.

Chirpich questioned what the practical difficulty was and Boatman stated that part of the solution was to use the right of way for the septic system. Jaster stated that the use of the right of way for the septic system would alleviate that problem, but there still was the issue with the 'tunnel view' because the 58 ft. setback required would be to the deck, which meant that the house would sit 30 feet further back than the adjoining structures.

Speaking in favor of the application was Joe Lightowler. Written correspondence in favor of the application was received from: Mark Bryan, Joe Lightowler, Rich and Jody Mattern, and Marlene Rayment Family. At this time, testimony was closed and further discussion was held.

Johnston questioned the removal of the storage shed in the shore impact zone. Chirpich stated that the Board has denied similar requests when there is room to move back. Spaeth stated that each application is looked at individually. Chirpich stated that by denying the variance, the

Board is not denying use of the property and the proposed house would still fit on the lot. Spaeth stated that if the Township denies easement into the right of way for the septic system, without a variance, the Jaster's would be confined to holding tanks and the size of the lot is a practical difficulty. Boatman felt that the storage shed in the shore impact zone should also be removed. Spaeth reminded the Board that with an approval, stipulations can be placed on the variance, but with a denial, there are no stipulations.

Motion: Chirpich made a motion to deny the request to construct a dwelling fifty (50) feet from the ordinary high water mark of the lake due to the fact that there is adequate room to move the structure back to meet the setback average plus twenty (20) feet and no other practical difficulty could be found. Johnston second. All in favor. Motion carried. Variance denied.

THIRD ORDER OF BUSINESS: Jamey and Mariah Jessen. Request a Variance to construct an addition onto a nonconforming 75 feet from the ordinary high water mark instead of the required 100 ft. setback and construct a detached garage eight (8) feet from the side lot line instead of the required 10 ft. setback due to setback issues for the property described as: Tax ID Number: 100731000, Sunny Cove Block 1 Lot 2; Section 12, TWP 139, Range 40, Erie Township. The project is located at 21020 Co Hwy 29 on Cotton Lake.

Jamey Jessen and Kelli Wegscheid, architect, explained the application to the Board. The cabin has been added onto multiple times and due to that is difficult to work with. The water from the county road funnels between the house and the garage. They want to add onto the house and rebuild the garage but keep the current water course. There is a need for a larger garage for cars, snow blower and mower. The area between the current garage and neighbor's structures is a dead zone for both parties.

Boatman questioned how the water was going to be mitigated. Jessen stated that a landscaper is going to come in to landscape the property to direct some of the water toward the state land, but not all of it can be diverted that way.

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

Chirpich questioned why the garage is not being attached to the house. Wegscheid stated that due to the roof lines, it would be difficult. Johnston stated that if the garage met the ten (10) ft. side yard setback, they could access the lake between the property line and the garage. Chirpich stated that a swale could be constructed to detour the water and incorporate the two structures into one. Spaeth reminded the Board that there are two requests, one for the garage and one for a house addition. Kessler questioned why the garage could not be attached to the house.

Wegscheid stated that they did not want to change the existing water course. Kessler stated that curb and gutter could be installed to help divert water.

Chirpich questioned what the practical difficulty was. There is adequate room to move the garage and there is an adequate size house. The addition would be going closer to the lake. Spaeth stated that he did not see any practical difficulty.

Motion: Chirpich made a motion to deny the variance as requested based on the fact that there are no practical difficulties to justify granting a variance. Kessler second. All in favor. Motion carried.

FOURTH ORDER OF BUSINESS: William Martodam. Request a Variance to construct a second story addition onto a nonconforming dwelling for the property described as: Tax ID Number: 170438000, Lot 12 Ex S 10 ft. Bergquist Beach; Section 27, TWP 138, Range 42, Lake Eunice Township. The project is located at 11385 West Lake Eunice Road on Lake Eunice.

Martodam explained the application to the Board. He would like to add a second story onto the original portion of the cabin and connect all the rooflines into one.

Kessler stated that the patio was to have been removed. Martodam stated that it will be removed during this project and replaced with a 9 ft. by 14 ft. deck. The patio must be removed in order to work on the construction of the upper story. Spaeth stated that he thought about denying the variance because the deck had not been removed. Martodam stated that if the variance is granted, the site permit could be held until the patio is removed.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Mary Joe, Steven, Donna and Lois Schneider in favor of the application. At this time, testimony was closed and further discussion was held.

Chirpich stated that the lot and the dwelling are nonconforming and the addition would not increase lot coverage or the existing footprint. Johnston questioned the lot coverage, he calculated 31%. The file indicates that lot coverage, after the removal of the patio will be 25%. Chirpich questioned how the water would be mitigated. Martodam stated that the garage is guttered and directed into French drains so he can do the same with the house.

Motion: Chirpich made a motion to approve a variance to construct a second story addition onto a nonconforming dwelling based on the fact that the lot is a nonconforming lot and the footprint of the dwelling would not be increased with the stipulations that water mitigation be done on the house and that the site permit for the addition is not issued until the patio is removed. Boatman second. All in favor. Motion carried. Variance approved with stipulations.

FIFTH ORDER OF BUSINESS: Bruce and Nancy Livingood. Request a Variance to construct a detached garage 27 feet from the road right of way instead of the required 45 feet from the road right of way due to setback issues for the property described as: Tax ID Number: 100190000, PT LOT 3 BEG AT PT ON NW LN SAR#4 519' NE OF INTER OF HWY & L3 TH NE 110' NW 239.1' TO LK SW 75' AL LK & SE 220.6' TO BEG LIFE EST TO LAWRENCE & EDNA SKUZA; Section 12, TWP 139, Range 40, Erie Township. The project is located at 20822 Co Hwy 29 on Cotton Lake.

Livingood and Howard Lomsdahl, contractor, explained the application to the Board. The existing garage is deteriorating and located right on the side lot line. He would like to tear down the existing garage and build a new one meeting the 10 ft. side lot line setback but the road right of way setback cannot be met.

Spaeth questioned which way the doors would face. Livingood stated that the doors would not face the road. Lomsdahl stated that gutters would be placed on the garage and water retention done by French drains. Chirpich questioned the status of the run off from the house. Livingood stated that the front of the house is guttered and runs into a low area in the front yard near the lake. There is a berm that keeps the water from running into the lake.

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.

Kessler felt that this was a good plan. Spaeth questioned what the practical difficulty was. Johnston stated that the setback on a township road is 20 ft. but on a county road it is 45 ft., which he did not agree with. Boatman felt this would be an improvement to the property.

Motion: Kessler made a motion to approve the variance to construct a detached garage twenty-seven (27) feet from the road right of way instead of the required forty-five (45) feet from the road right of way based on the fact that the depth of the lot does not allow the garage to meet the forty-five (45) foot setback with the stipulation that the garage be guttered and water diverted into French drains. Johnston second. All in favor. Motion carried. Variance approved with stipulations.

SIXTH ORDER OF BUSINESS: Cynthia Lura. Request a Variance to construct a detached garage 10 feet from the road right of way and 9 feet from the side property line instead of the required 20 feet from the road right of way and 10 feet from the side lot line for the property described as: Tax ID Number: 191467000, LOTS 3 AND 4 MUNSON BEACH; Section 05,

TWP 138, Range 41, Lake View Township. The project is located at 15619 W Munson Ln on Munson Lake.

Cynthia and Dale Lura explained the application. They would like to build a garage and found out that they would exceed the required ten (10) ft. side yard setback and would be in line with the house. The current shed is ten (10) feet from the side lot line.

Spaeth stated that there was nothing marked when the Board visited the property. Kessler questioned if they knew where the road right of way was located. D. Lura stated that he did not, but went by what the neighbors had told him. Spaeth suggested tabling the application until the road right of way could be located, the lot lines found and identified and the garage site properly marked.

At this time, Lura asked to table the application until a later date.

SEVENTH ORDER OF BUSINESS: James Williams. Request a Variance to construct a patio 48 feet from the ordinary high water mark of the lake instead of the required 75 feet for the property described as: Tax ID Number: 191447000, LINDEN PARK: LOTS 1 & 2 & TRI TRACT IN NE COR LOT 3; Section 19, TWP 138, Range 41, Lake View Township. The project is located at 23729 Co Hwy 22 on Lake Melissa.

Williams and Chris Hawley, architect, explained the application to the Board. The existing building was removed and a new structure built meeting the setback average plus twenty (20) feet. Due to the shallowness of the lot, it does not allow for a larger patio and a larger patio is desired. The current permitted patio is twelve (12) feet and they would like to have an eighteen (18) foot patio. The twelve (12) ft. patio is unusable when you get furniture on the patio.

Chirpich questioned what type of mitigation was done. Moltzan explained that the amount of material removed from the shore impact zone and the increased lake setback off set the amount of mitigation that was required. Williams stated that they have done some native plantings along the shoreline.

No one spoke in favor of the application. No one spoke against the application. Jean Gompf had questions regarding the lot size and amount of impervious coverage, which were answered by the Board. Written correspondence was received Fred Williams, Jr and Lynn and Gini Marr all in favor of the application. At this time, testimony was closed and further discussion was held.

Spaeth stated that he thought about granting the variance, then, the Board could require mitigation and French drains. Chirpich stated that patio furniture does not constitute a practical difficulty. Spaeth stated that the size of the lot constitutes a practical difficulty. Kessler felt that

a 580 sq. ft. patio was adequate and there was no practical difficulty in increasing the size to 870 sq. ft.

Motion: Chirpich made a motion to deny a variance to construct a patio forty-eight (48) feet from the ordinary high water mark of the lake instead of the required seventy-five (75) feet based on the fact that no practical difficulty could be proven and that the practical difficulty presented was man made. Kessler second. All in favor. Motion carried. Variance denied.

EIGHTH ORDER OF BUSINESS: Jeremiah Rudolph. Request a variance to construct a dwelling 22.5 feet from the ordinary high water mark of the lake instead of the required 75 feet due to setback issues for the property described as: Tax ID Number: 190339000, PT GOVT LOT 1: COMM SE COR SEC 17, N 2647.84', SW 561.45' TO POB; SE 34.71', ELY 78.29', NW 176.12' TO LAKE SALLIE, SW AL LK TO PT NW OF POB, SE 149.71' TO POB; Section 17 Township 138 Range 41, Lake View Township. The property is located at 13492 Fairhaven Ln on Lake Sallie.

Jeremiah and Vicky Rudolph explained the application to the Board. They bought the property four (4) years ago and have used the cabin for the first two (2) years but the cabin is deteriorating and needs to be replaced. The existing structure is 22 ft. by 24 ft. They would like to replace it with a 26 ft. by 28 ft. two-story cabin.

Kessler asked if the property was located at the end of the road and if there were any lots beyond theirs. Rudolph stated that they were the last lot on Fairhaven Beach and the next lot to the north is in the plat of Lake Ridge, which is accessed from Highway 59.

Boatman questioned if they owned the land on top of the bluff. Rudolph stated that they did not. Spaeth stated that there is not enough room between the lake and the bluff to get a structure out of the shore impact zone unless it would be 19 feet wide and pushed to the base of the bluff. Discussion was held regarding the setbacks, condition and stabilization of the bank, rebuilding the same cabin in the same location, building larger and moving further back from lake and size of structure.

Speaking about the application was Jean Gompf, neither for nor against the application, but felt more information was needed and felt there were other options. Spaeth stated that there is limited area and very little room to move the structure. Aaron Wolf felt that the new structure would be an improvement to the Beach and to the lake. Written correspondence was received from Diane Ketelsen and Aaron Wolf in favor of the application. At this time testimony, was closed and further discussion was held.

Kessler stated that the proposal was only adding 200 sq. ft. to what was existing, which is modest. Johnston felt this was a big improvement to the lake and the topography does not allow for anything else and they need to keep a distance from the bluff for pumping of the holding tank. Chirpich felt it would improve the lot and mitigation could be done to control the run off.

Motion: Chirpich made a motion to approve a variance to construct a dwelling twenty-two and one half (22 ½) feet from the ordinary high water mark of the lake instead of the required seventy-five (75) feet based on the size, shape and topography of the lot with the stipulation that the house be guttered and run off be contained in a holding area. Johnston second. All in favor. Motion carried. Variance approved with stipulations.

NINTH ORDER OF BUSINESS: Stenson Family Trust. Request a Variance to construct a dwelling fifty-nine (59) feet from the ordinary high water mark of the lake instead of the required 100 ft. setback or the setback average plus 20 feet for the property described as: Tax ID Number: 170361000, PT GOVT LOT 4 BEG 139.54' NE & 1978.36' SE OF MOST SLY COR L1 BLK 1, JORDAHL BCH; TH S 72.65' TO CNTR OF RD, TH SE AL CNTR LN 56', TH N 297.38' TO LK, TH WLY AL LK TO PT N OF POB, TH S 209.10' TO POB; Section 30, TWP 138, Range 42, Lake Eunice Township. The property is located at 17212 S Big Cormorant Rd on Big Cormorant Lake.

Donita Lennon and JoAnn Stenson explained the application to the Board. They would like to remove the existing mobile home and replace it with a larger manufactured home. The current structure is sitting in stringline with the neighboring structures. This placement would allow them to save the patio and utilize it and save the only trees left on the lot. If the structure is moved too far toward the road, it would be too close to the septic system. Due to the need for handicap accessibility, the house is one story, making it a longer home. Lennon stated that the house would be guttered and put into French drains.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Carolyn Amundson, Beverly Marotzke, Richard and Pamela Larson, all in favor of the application. At this time, testimony was closed and further discussion was held.

Chirpich stated that there is room to move back to meet the setback average plus 20 feet. Johnston felt that the house could be made smaller. Spaeth felt that the house could be moved further back. Kessler reminded the Board that they just denied a similar request just down the road from this one. Spaeth stated that each application is looked at individually. However, in this case, there is room to move the structure further from the lake. Spaeth stated that if the variance was granted for handicap accessibility reasons, upon the demise of one of the individuals, the house would have to be relocated at that time and that is not feasible.

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Motion: Chirpich made a motion to deny a variance to construct a dwelling fifty-nine (59) feet from the ordinary high water mark of the lake instead of the required one hundred (100) ft. setback or the setback average plus twenty (20) feet based on the fact that there is no practical difficulty and the house could be moved further from the lake to meet the setback average plus twenty (20) feet. Kessler second. All in favor except Boatman. Majority in favor. Motion carried. Variance denied.

TENTH ORDER OF BUSINESS. Informational Meeting.

The next informational meeting will be held on Thursday, September 4, 2014 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, Boatman made a motion to adjourn the meeting. Chirpich second. All in favor. Motion carried. Meeting adjourned.

Steve Spaeth, Vice Chairman

ATTEST _____
Patricia L. Swenson, Zoning Administrator