

Becker County Board of Adjustments
August 11, 2016

Present: Members Harry Johnston, Lee Kessler, Jim Kovala, Steve Spaeth and Zoning Staff Debi Moltzan. Absent were Jim Bruflo and Roger Boatman.

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

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

FIRST ORDER OF BUSINESS: Corey Copeland et al. Request a Variance to construct a deck onto a nonconforming structure which is located fifty (50) feet from the ordinary high water mark of the lake for the property described as: Tax ID number: 170357000, PT LOT 4 BEG AT SE COR L10 PALIN BCH TH S 34.66' TO C/L RD SE 98.37' N 269.39' TO LK W AL LK TO PT N OF BEG & S 220.47' TO BEG; Section 30, TWP 138, Range 42, Lake Eunice Township. Project Location: The property is located at 17170 S. Big Cormorant Road on Big Cormorant Lake. This application was tabled by the applicant at the May 12, 2016 hearing.

Steve Carr, one of the owners, explained the application to the Board. They are requesting a 16 ft. by 28 ft. deck to be constructed on the north side of the garage, toward the lake. The deck is to allow a handicap relative an area to view the lake and watch the kids without having to maneuver up the steps inside the house to get to the upper floor deck. Carr stated that a buffer of a butterfly kit and wild flowers was planted on the west side of the property with a cover crop of oats. The plants were obtained from SWCD and they said that it would take about 2 -3 years for the flowers to establish.

Kessler questioned the driveway being concrete instead of the previously planned pervious pavers. Carr stated that those changes were approved by the County and there is a large infiltration area under the concrete, which there is an overflow that goes into perforated drain tile with an overflow toward the lake. Kessler questioned if they have considered the folding temporary ramps. Carr stated that they have, but would prefer not to deal with that.

Kovala felt that the mitigation was not very good and that Carr should have gone to the nursery to get plants. Carr reiterated that he got plants from SWCD and planted, the plants are there but they establish a root system first then grow upward. Johnston felt that the deck was excessive. Spaeth stated that a 4 ft. by 6 ft. landing and ramp could be permitted without a variance.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Cormorant Lakes Watershed District opposed to any construction in the shore impact zone. At this time, testimony was closed and discussion was held.

Kessler felt that a berm should be constructed along the lakeshore to keep the run off from entering the lake. Kessler felt that the water from the over flow and the downspouts from the north side of the house ran directly into the lake. Johnston felt that a smaller deck and more mitigation would be acceptable. Kovala stated that he was disappointed with the plantings and the water running down the hill. Spaeth stated that the Board could look at the handicap portion of the request and allow the deck with the stipulation that the deck would be removed when the person for which the deck was constructed for no longer used it or just look at a variance for the deck in general.

Motion: Johnston made a motion to approve a variance to construct a pervious deck, 12 ft. by 20 ft. in size to be no closer than fifty (50) feet from the ordinary high water mark of the lake with the stipulation that French drains be constructed on both north side corners of the house and construct a berm along the shoreline based on the fact that this would be the smallest reasonable variance request for granting to allow accessibility and the additional mitigation will control more water and improve water quality. Kessler second. All in favor. Motion carried. Variance approved with stipulations.

SECOND ORDER OF BUSINESS: Jan Morin. Request a Variance to construct a dwelling sixteen (16) and fifteen (15) feet from the road right of way and one hundred (109) feet from the ordinary high water mark of the lake for the property described as Tax ID number: 17.0633.000, Lot 12, Block 3, Blue Water Bay; Section 19, TWP 138, Range 42; Lake Eunice Township. The property is located on Arrow Lake at the intersection of East Arrow Lake Road and Blue Water Bay Road. This application was tabled by the applicant at the July 14, 2016 hearing.

Morin and Carl Malmstrom explained the application to the Board. They changed the location of the house to meet both the twenty (20) foot setback from both road right of ways. By doing this, the house would be approximately ninety-six (96) feet from the ordinary high water mark of the lake.

Spaeth questioned if the house was still going to be 32 ft. by 36 ft. in size. Malmstrom stated that the house would be that size and is a reduction from the original request from last year. Kovala asked if the access to the property was off the East Arrow Lake Road or Blue Water Bay Road. Malmstrom stated that the existing approach is off of East Arrow Lake Road, which is less steep. Kovala questioned if there would be a future garage. Malmstrom stated that the house would be constructed with a tuck under garage.

Heidi Johnson, neighbor, 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 stated that the owner has made every effort to get reasonable use of the property and has adjusted the request so that only one (1) variance was required instead of three (3).

Motion: Kessler made a motion to approve a variance to allow the construction of a dwelling to be ninety-six (96) feet from the ordinary high water mark of the lake based on the fact that both road setbacks have been met. Without the variance the owner is deprived of reasonable use. There is adequate vegetation between the structure and the lake; and the original request is to be denied. Kovala second. All in favor. Motion carried. Variance approved with amendments.

THIRD ORDER OF BUSINESS: Dion Brandt and Lisa Dunham. Request a Variance to construct a detached garage ten (10) feet from the road right of way for the property described as: Tax ID number: 200227000, Pt Govt Lot 2; Comm NE Cor Gvt Lot 2 AKA Meander Cor #94 Th W 177.52' Al N Ln to POB; Th W 321.94', Th S 39.19' to Nly Ln Pub Rd, Th SE 276.84' Al Rd, Th NE 173.30' Al Nwly Ln Public Rd to POB; Section 8, TWP 142, Range 40, Maple Grove Township. The property is located on 387th ST. This application was tabled by the applicant at the June 9, 2016 hearing.

Brandt explained the application to the Board. This location was chosen because there is a hill, well, low area and power pole interfering with the location in any other location.

Spaeth stated that the garage could be made smaller to meet the setbacks. Brandt stated that the well would still interfere and the power pole would be difficult to relocate.

Doyle Nordby, one of the owners of the property, stated that this is a complicated issue by having four (4) owners of the property and all four (4) owners should be in sync with the project because everyone wants to do this.

Spaeth asked Brandt if he realizes that the way the deed is written and he builds a structure that the rest of the owners would own one-fourth (1/4) of the building. Brandt stated that he did. Spaeth suggested that one common structure should be constructed.

Johnston felt that the applicant should wait until all owners can agree on what should be done. Spaeth questioned what the variance is for, request is one setback and the drawing shows another setback. Brandt stated that it was to be seventeen (17) feet from the property line. No one spoke in favor of the application. Roger Nordby stated that he is one of the owners and would also like

a garage on this property. Written correspondence was received from Fred Brower, in opposition to the application. At this time, testimony was closed and further discussion was held.

Moltzan stated that the road to the south and east of the property is a dedicated platted road and that the applicant needs to know exactly where the right of way is located before any permits can be issued. Spaeth stated that he could not find any practical difficulty of the property.

Motion: Kessler made a motion to deny the variance to construct a detached garage ten (10) feet from the road right of way based on the fact that there is no practical difficulty to warrant a variance and if granted, it would have benefitted one owner and not all owners. Johnston second. All in favor. Motion carried.

FOURTH ORDER OF BUSINESS: David and Candace Schultz. Request a Variance to construct an addition onto a nonconforming structure seventy-one (71) feet from the ordinary high water mark of the lake for the property described as: Tax ID number: 160302000, LOT 1, CALICO BEACH; Section 35, TWP 140, Range 40, Holmesville Township. The property is located at 33541 N. Cotton Lake Road on Cotton Lake.

Schultz explained the application to the Board. The cabin was constructed in 1991 at the string line setback. They would now like to make to changes to the cabin, replace the screen porch with a four (4) season porch and place an addition onto the back side of the cabin. The setbacks from both side lot lines and the road can be met, it is just the lake setback and nothing would be going closer to the lake than what the existing house is. The septic system would have to be upgraded and since there is not enough room, holding tanks would have to be installed.

Kessler questioned what the practical difficulty was. Schultz stated that the regulations changed making his house nonconforming.

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.

Kovala stated that he does not have a problem with replacing the screen porch with a four (4) season porch, but can't find a practical difficulty to allow the back addition. Spaeth stated that the lot is not that large of a lot and the zoning regulations have changed but cannot find a practical difficulty. Kessler stated that he is struggling with this one to find a practical difficulty. Spaeth stated that the building is of adequate size for the lot.

Further discussion was held regarding the state statute allowing the replacement of the screen porch; setback average plus 20 ft. regulation; the fact that the improvements would meet three

(3) of the four (4) setbacks; the structure is located outside the shore impact zone; the project is less than 25% impervious lot coverage; and there is little run off toward the lake.

Motion: Kessler made a motion to approve a variance to allow additions onto a nonconforming structure seventy-one (71) feet from the ordinary high water mark of the lake based on the fact the variance is not substantial in relation to the requirements. Kovala second. All in favor. Motion carried. Variance approved.

FIFTH ORDER OF BUSINESS: Larry and Nancy Weibusch. Request a Variance to construct a dwelling sixty-eight (68) feet from the ordinary high water mark of the lake, with an existing deck fifty (50) feet from the ordinary high water mark of the lake for the property described as: Tax ID number: 170889000, LOT 10, MAPLE BEACH; Section 22, TWP 138, Range 42, Lake Eunice Township. The property is located at 30063 E. Maud Lake Road on Maud Lake.

Mike Lovelace, Paul Davis Restoration, explained the application to the Board. The existing house would be removed and replaced with a house in the same location, enlarging the house size by the size of the existing roadside patio. A basement would be added under the home in the location of the existing patio. Measures have been taken to reduce the impervious from 30.8% to 25%. French drains will be added to the front of the cabin.

Spaeth stated that the deck measured forty-four (44) feet from the ordinary high water mark of the lake, not fifty (50), so it is located in the shore impact zone. Spaeth questioned if the lot size was known. Moltzan stated that the exact lot size was not known, the platted lot area was to the water's edge as platted in 1949, not to the high water mark.

Kessler stated that the boathouse did not look like a boathouse and appeared to be used more as a cabin.

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 stated that there have been good efforts made on the mitigation so far. Spaeth felt that the deck and boathouse located in the shore impact zone needed to be removed. Kovala questioned if the house would be one (1) story or two (2) stories. Lovelace stated that the structure would be a one (1) story home.

Discussion was held on removing the boathouse and if the boathouse were to be removed, it is possible the owners would want to put a second story on the house. Discussion also included the

contractor tabling the application to discuss the boathouse removal with the owners or making a decision on the variance and the owners would have to deal with the decision. Lovelace felt the Board should go ahead with a decision.

Motion: Kovala made a motion to approve a dwelling to be located sixty-eight (68) feet from the ordinary high water mark of the lake and allow the existing deck to remain at fifty (50) feet from the ordinary high water mark of the lake with the stipulation that the portion of the deck which is located closer than fifty (50) feet from the lake must be removed and the boathouse must be removed from the property based on the fact that the variance is not substantial in relation to the requirements. Kessler second. All in favor. Motion carried. Variance approved with stipulations.

SIXTH ORDER OF BUSINESS: Informational Meeting. The next informational meeting is scheduled for Thursday, September 1, 2016 at 7:00 am in the 3rd Floor Meeting Room of the Original Courthouse.

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

Steve Spaeth, Vice Chairman

ATTEST

Steven L. Skoog, Director of Land Use Department