

Becker County Board of Adjustments
June 8th, 2017

Present: Chairman Jim Bruflodt, Members: Harry Johnston, Jim Kovala, Steve Spaeth, Brad Bender, Interim Zoning Administrator Patricia Swenson and E911/Zoning Technician Rachel Bartee. Absent were Roger Boatman and Lee Kessler.

Chairman Jim Bruflodt called the meeting to order at 7:00 p.m. E911/Zoning Technician Rachel Bartee recorded the minutes.

Introductions were given.

Kovala made a motion to approve the minutes for the May 11th, 2017 meeting. Bender seconded. The motion passed unanimously. Motion carried.

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

Old Business:

FIRST ORDER OF BUSINESS: Applicant: Jerry Radermacker P.O. Box 10417 Fargo, ND 58106 **Project Location:** 11938 Ravenswood beach rd **LEGAL LAND DESCRIPTION:** Tax ID number: 19.1699.000 Section 28 Township 138 Range **APPLICATION AND DESCRIPTION OF PROJECT:** Request a variance to place a garage partially in the road right of way. This application was tabled at the April 13, 2017 hearing by the applicant.

Swenson presented the application.

Jerry Radermacker explained the application to the Board. He requested a variance for 26x30 ft. storage building across the road from the lake, requesting to be 32 (thirty-two) feet from the center of the road. Radermacker stated since the last hearing he has received a 25 year lease from Lake View Township Board to build his structure partially in the road right of way. Radermacker stated that the Township Board is offering the construction of the garage in the ROW in exchange for leasing a portion of his land for a turn-around. Radermacker stated this will allow a sufficient area for the plow to make a safe turn around.

Bruflodt asked if the plows only go just to the north of Radermacker's property. Radermacker replied yes. He stated that the fire and garbage trucks will also have access to this turnaround. Radermacker added that he has been working on cleaning up the area for the turnaround since he purchased the property.

42 Bruflodt asked if three quarters of the garage would be in the ROW. Radermacker replied yes.

43

44 Kovala asked Radermacker if he had considered building smaller. Radermacker asked 24ft. vs
45 26ft. feet? Radermacker stated he could move back instead. Kovala stated that there is a bluff
46 behind the proposed garage. Radermacker replied if he moved back 2 feet the garage would not
47 go into the bluff. Radermacker added what he proposed is a minimal request, as truck sizes these
48 days are longer, and he would like to move the items he has outside in the yard into a storage
49 structure to clean up the yard.

50

51 Present was Bill Jordan, Lake View Township Board Supervisor to speak in favor of the
52 application. Jordan stated that the Township has been working with 2 of the neighbors on this
53 section of road since last year to put this lease agreement through. He stated all members of the
54 Township Board approved, signed and notarized it. Jordan stated the Township's attorney
55 recommended both of the leases with both applicants will accomplish what the Board wants.
56 Jordan added Mr. Okeson, former Township Supervisor, also stated he was in favor of the lease
57 agreement.

58

59 Spaeth asked why the Township is not vacating part of a section to Radermacker and
60 Radermacker in turn releasing a portion of his property to Lake View Township.

61 Jordan stated the Township Board wants to ultimately stay in control of the land and have their
62 say in what happens with it. For example, if people start parking in front of the garage. A lease is
63 not as finite. Bender asked Jordan if the purpose is for the Township Board to be the first party to
64 be involved if anything goes wrong with this lease agreement. Jordan stated yes adding that the
65 lease is renewable adding that the owners must follow stipulations that are the way the lease was
66 designed. Jordan added for example if the owner tried to shut off the turnaround. Jordan stated
67 that the lease is a great solution for the neighborhood issue.

68

69 Bender asked if these requests are going to become a common occurrence, is there going to be
70 another request brought to the board next month, noting that there are two properties on the
71 agenda with similar requests this month. Jordan stated the reason for the multiple applications is
72 because the whole right of way is owned by one entity, the township; however there are two
73 different fee holders so they realized they needed two different applications. Jordan stated there
74 is not going to be a stampede.

75

76 Spaeth asked what the benefits of vacating versus a renewable lease are, adding what if in 25
77 years they want to cancel the lease or if the owners are not upholding their terms. Jordan replied
78 that it was the Township Board who came up with the idea for the lease, and determined it was
79 the best fit for all involved. Jordan stated that there are many septic and mound systems on
80 leased ROW's in Lake View Township and that the township board has been doing it for years
81 and noting that this is what they feel comfortable with doing. Jordan also added that variances

82 last forever whereas the lease is only for 25 years. Spaeth stated that there is no comparison from
83 a mound system to a structure. Spaeth asked if the lease travels with the property when they sell
84 it. Jordan replied yes it will. Kovala asked if the township plows this road. Jordan stated yes, the
85 turnaround in someone's driveway now but once the lease is approved we will use the
86 turnaround. Jordan added that the owner has done substantial work to clean up the area of the
87 proposed turnaround.

88

89 No one spoke in favor of the application. No one spoke against the application. There was no
90 written correspondence for or against the application. There was written correspondence about
91 the lease from Assistant County Attorney Brian McDonald. This was read by Patricia Swenson.

92

93 Patty,

94

95 After discussing the issue, the lease was drafted by an attorney for the township and it's the
96 township's concern whether or not it's legally defensible as a "valid" lease. Therefore, our office
97 is not expressing any opinion about the validity or properness of the lease.

98

99 I can understand why the BOA is curious about the lease, but it is our position that the BOA
100 should analyze the variance request via the criteria set forth by ordinance, irrespective of the
101 lease.

102

103 Please advise if you would request this to be in a formal letter.

104

105 Brian W. McDonald

106 Assistant Becker County Attorneys

107

108 At this time, testimony was closed and further discussion was held.

109

110 Kovala stated every property on Ravenswood Beach Rd has the same opportunity; this is just
111 compounding what they already have. From what we measured on our tour the rest are just as
112 close as this one is proposing. Spaeth stated they were close but not into the ROW. Bender stated
113 that item 2 on the lease does not address what happens to the variance, could we make a
114 stipulation that the variance goes away if the lease is cancel/voided. Johnston stated that he is in
115 favor of the proposal due to the bluff issue, but would also like to see the stipulation to void the
116 variance if lease is voided. Brufloodt noted that he would not normally be in favor of structures in
117 the ROW however if Lake View Township will police this he is in favor.

118

119 **Motion: Bender** made a motion to **approve** the application as it is proposed to construct a
120 detached garage 32 (thirty-two) feet from the centerline, as agreed upon by the lease and
121 drawings. Approved with the stipulation that if the lease is terminated the variance will also be
122 cancel/voided. Spaeth added this is not a very traveled road and the owner is prevented from
123 moving back further due to the bluff.

124

125 Bender adopted the staff findings into the motion.

126

127 Staff Findings:

128

129 The owner is looking to place part of his garage at the end of a public road.

130

131 1. Is the variance request in harmony with the general purposes and intent of the above
132 citation? (yes) (no)

133 Explanation: No, generally speaking building in the road right of way is not
134 allowed upon, and vacating the road way is a much better option.

135

136 2. Is the variance consistent with the Becker County Comprehensive Plan? (yes) (no)

137 Explanation: No

138

139 3. Without a variance, is the owner deprived of reasonable use of the property? (yes)
140 (no)

141 Explanation: No, he could request the township to vacate the portion and then
142 request a variance from the right of way.

143

144 4. Is the alleged practical difficulty due to circumstances unique to this property? (yes)
145 (no)

146 Explanation: Yes the topography is such that finding a suitable area for the
147 project would be difficult.

148

149 5. Were the circumstances causing the practical difficulty created by someone or
150 something other than the landowner or previous landowner? (yes) (no)

151 Explanation: Yes the lot is narrow and the topography is such that it would be hard
152 to find a different area.

153

154 6. Will the issuance of the variance maintain the essential character of the locality?
155 (yes) (no)

156 Explanation: Yes it is in a residential area and the owner is proposing a modest
157 home.

158

159 7. Does the alleged practical difficulty involve more than economic considerations? (yes)
160 (no)

161 Explanation: Yes

162

163 **Johnston second.** All in favor. Motion carried. Variance **approved.**

164

165 **SECOND ORDER OF BUSINESS: APPLICANT: Darlene & Steven Kruger Trust 6263 16TH**

166 **ST S Project Location: 33253 N COTTON LAKE RD, ROCHERT MN 56578 LEGAL LAND**

167 **DESCRIPTION: Tax ID number: 160292000 Section 35 Township 140 Range 040 APPLICATION**

168 **AND DESCRIPTION OF PROJECT: Request a variance to replace the current non-conforming**

169

170 dwelling to be located at sixty-one (61) feet from the ordinary high water mark. Also, proposing
171 a patio to be constructed at fifty-three (53) feet from the ordinary high water mark. Both
172 structures are deviating from the required setback of one hundred (100) feet from a recreational
173 development lake. This application was tabled at the May 11th, 2017 hearing by the applicant.
174

175 Swenson presented the application.
176

177 Brianna Asmus (daughter of Steven Kruger), husband Alex Asmus, Darlene Kruger and Bryan
178 Schoenberger of Modern Living Concepts were present. Brianna Asmus explained the
179 application. Asmus stated the parcel had been left to her and her brother when their father Steven
180 passed away. Asmus presented the revised plan to remove a 12x13 ft. sunroom from the original
181 proposed structure adding they would be completely out of the shore impact zone.
182

183 Bender asked if this new proposal would place them at the setback averaging plus 20 (twenty)
184 mark. Schoenberger stated that no, they would not, they would be at 53 (fifty-three) feet from the
185 patio and 61 (sixty-one) feet for the dwelling from the OHW.
186

187 Asmus stated that the front of the cabin would be looking right at the back of the neighbors on
188 either side if they moved it back any further. Asmus stated that she spoke with her neighbors and
189 they agreed she should be more in line with their dwellings. Schoenberger added that elevation
190 changes would cause issues if they were to get any closer to the garage. Spaeth stated they could
191 build smaller opting for a depth of 26 (twenty-six) feet instead of 33 (thirty-three) feet, adding
192 that there are other options available to them. Asmus stated that they need the depth as the
193 bedrooms are already very small. Asmus stated that her and her brother are sharing the property
194 now that they have inherited it and want the space to be able to accommodate their growing
195 families in the future.
196

197 Bender stated that the proposal had not changed in size since the previous months hearing.
198 Schoenberger stated in fact it had. Previously it had been a rectangle shape with a square and
199 they had removed the 12x13 ft. sunroom. Asmus stated they also reduced the depth 2 feet.
200

201 Spaeth stated if you proposed another 13 (thirteen) feet back you would meet the setback
202 averaging twenty (20) and would not require a variance. Schoenberger stated that this would
203 place the house right next to the garage.
204

205 Rita Miller spoke on the application. Miller is a neighbor, 4 properties to the east (16.0288.000),
206 33281 N Cotton Lake Rd. Miller inquired about whether the garage was going to be removed or
207 if was to be left in the same location. Asmus stated that they are going to leave the garage in the
208 same location. Asmus stated that they will tear down a shed and well house, all of which are in

209 the shore impact zone. Miller noted the garage is close to the road. Asmus stated that the road is
210 on their property so that is why it is so close.

211
212 No one spoke in favor of the application. No one spoke against the application. There was no
213 written correspondence for the application. There was written correspondence against the
214 application from Rodger Hemphill, DNR Area Hydrologist. This was read by Patricia Swenson.

215
216 **RE: Darlene Kruger Variance Request, 33253 Cotton Lake Rd Rochert, MN**

217 Dear Patty and the Becker County Board of Adjustment;

218 The DNR recommends denying the request for a variance to replace the existing 816 square
219 foot dwelling with a new 1,518 square foot dwelling structure 61 from the OHWL of Cotton
220 Lake in Becker County. The structure setback for this lake is 100 feet. This project would be
221 an expansion of the nonconforming use and does not conform with Becker County's Zoning
222 Ordinance Chapter 3 Section 7 or MS 394.36 Subd.4.

223
224
225 Thank you for the opportunity to comment,

226
227
228 Rodger Hemphill
229 Area Hydrologist | Ecological & Water Resources

230
231 At this time, testimony was closed and further discussion was held.

232
233 Spaeth stated that there is an alternative to this proposal, adding that the proposed structure is
234 substantially larger than the current dwelling. Spaeth stated that it is a small lot and the DNR
235 letter states it all, we do not need this big of a house, as much as they want it, it does not fit.
236 Johnston stated setback averaging plus twenty (20) is what they have to work with, even if it has
237 to be smaller, we have to follow the zoning regulations. Bender stated he did not recall
238 significant tunneling to call for a reason not to use the setbacks.

239
240 **Motion: Spaeth** made a motion to **deny** the request for a variance to replace the current non-
241 conforming dwelling to be located at sixty-one (61) feet from the ordinary high water mark.
242 Also, denying a patio to be constructed at fifty-three (53) feet from the ordinary high water mark.
243 Both structures are deviating from the required setback of one hundred (100) feet from a
244 recreational development lake. Spaeth stated that the house is too big for the site; they can use
245 setback averaging plus twenty (20) instead, and the request for twice the size as the original
246 structure is excessive.

247
248 **Bender second.**

249 All in favor

250
251

252 Variance **denied**.

253

254 **New Business:**

255

256 **THIRD ORDER OF BUSINESS: Applicant: Timothy J & Brenda R Dooher** 11930

257 Ravenswood Beach Rd, Detroit Lakes, MN 56501 **Project Location:** 11930 Ravenswood Beach

258 Rd, Detroit Lakes, MN 56501 **LEGAL LAND DESCRIPTION:** Tax ID number: 19.1700.000

259 Section 28 Township 138 Range 041 **APPLICATION AND DESCRIPTION OF PROJECT:**

260 Request a variance to construct a detached garage thirty-three (33) feet from the center line of the

261 road, deviating from the required setback of fifty-three (53) feet from the center line for a

262 detached accessory structure on a township road.

263

264 Swenson presented the application.

265

266 Timothy J & Brenda R Dooher explained their application. Dooher stated they would like a

267 variance to construct a detached garage thirty-three (33) feet from the centerline of the road,

268 adjacent to Radermacker's garage, variance request from above, on parcel 19.1700.000. Dooher

269 is requesting to lease a portion of the road right-of-way from Lake View Township. Dooher

270 stated his company sold and he is now retired resulting in relocation to this property. Dooher

271 added that the current storage is not adequate to the property's new use as their fulltime

272 residence. The request is based on a specific need for additional storage for items such as wood

273 working tools, garage items, the storage of vehicles and water craft, and for the security of

274 personal belongings.

275

276 Dooher added that the request is also based on safety, in case of inclement weather, they have no

277 basement in their home and in the case of a tornado a "safe-Room" will be established in the

278 garage. Dooher stated there are six similar garages on the road already.

279

280 No one spoke in favor of the application. No one spoke against the application. There was no

281 written correspondence either for or against the application. At this time, testimony was closed

282 and further discussion was held.

283

284 Spaeth asked what Dooher is giving up in exchange for the lease, as his neighbor Radermacker is

285 giving up a turnaround. Dooher stated he already gave up two crushed sidewalks. Kovala asked

286 if there were going to be living quarters in the proposed garage. Dooher replied no. Bender asked

287 to explain the safe room. Dooher stated it will be a block set of walls in the middle. Bender asked

288 if there was going to be a basement. Dooher stated no. Bender mentioned that Jordan had

289 previously stated Dooher was also giving up a turnaround.

290

291 Johnston noted that there was a denied variance request in the file from 2006 to construct a

292 garage 10 feet from the ROW. Spaeth stated there was not a Lake View Township lease

293 proposed with the variance request at that time. Brufloodt added that the Township will be
294 policing this proposal per the lease provided.

295

296 **Motion: Bender** made a motion to **approve** a variance to construct a detached garage thirty-
297 three (33) feet from the centerline of the road, deviating from the required setback of fifty-three
298 (53) feet from the centerline for a detached accessory structure on a township road with the
299 stipulation that the variance is cancel/voided if the lease is ever voided. Findings include that this
300 is a dead-end road with minimal traffic, it will best benefit the neighborhood, and there is a bluff
301 behind the proposed garage, preventing placing the structure back further.

302

303 Spaeth adopted the staff findings into the motion.

304

305 Staff Findings:

306

307 **1. Is the variance request in harmony with the general purposes and intent of the**
308 **above citation? (yes) (no)**

309 **Explanation:** No, generally speaking building in the road right of way is not allowed
310 upon, and vacating the road way is a better option.

311

312 **2. Is the variance consistent with the Becker County Comprehensive Plan? (yes) (no)**

313 **Explanation:** No

314

315 **3. Without a variance, is the owner deprived of reasonable use of the property? (yes)**
316 **(no)**

317 **Explanation:** No, he could request the township to vacate the portion and then request a
318 variance from the right of way.

319

320 **4. Is the alleged practical difficulty due to circumstances unique to this property? (yes)**
321 **(no)**

322 **Explanation:** Yes the topography is such that finding a suitable area for the project
323 would be difficult.

324

325 **5. Were the circumstances causing the practical difficulty created by someone or**
326 **something other than the landowner or previous landowner? (yes) (no)**

327 **Explanation:** Yes the lot is narrow and the topography is such that it would be hard to
328 find a different area.

329

330 **6. Will the issuance of the variance maintain the essential character of the locality?**
331 **(yes) (no)**

332 **Explanation:** Yes, it is in a residential area and the neighboring properties have similar
333 structures.

334

335 **7. Does the alleged practical difficulty involve more than economic considerations?**
336 **(yes) (no)**

337 **Explanation:** Yes

338
339 **Kovala second.**

340
341 Variance **approved.**

342
343 **FOURTH ORDER OF BUSINESS Applicant: Steven P & Brian T Barnick** 5883 26 St S
344 Fargo, ND 58104 **Project Location:** 15877 W Little Cormorant Rd, Audubon, MN 56511
345 **LEGAL LAND DESCRIPTION:** Tax ID number: 17.0560.000 Section 05 Township 138 Range
346 042 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a variance to construct a
347 dwelling smaller (910 sq. ft.) than the footprint (1308 sq. ft.) of an existing non-conforming
348 dwelling at fifty (50) feet from the OHW of the lake and add a walkout basement, deviating from
349 the required setback of one hundred feet (100) from the OHW.

350
351 Swenson presented the application.

352
353 Steven Barnick explained the application. Barnick stated that due to water issues with the current
354 1976 trailer, the structure is now full of mold. Barnick added that it is extensive and not
355 repairable. Barnick stated he is requesting a variance to build a cabin in the same location as the
356 current structure. Barnick added that it will be a smaller building 910 sq. ft. verse the current
357 footprint of 1308 sq. ft.

358
359 Spaeth stated that Barnick is not building in the footprint. Barnick stated that they are building
360 up. Brufloft asked if it was going to have living space above. Barnick replied yes. Johnston
361 asked if the square footage would be larger. Barnick stated that the current square footage is
362 1308 and the proposed is 900 square feet.

363
364 Brufloft asked what the plan is for the area up front with the boat landing, 2 docks, and riprap.
365 Barnick stated that he and his brother received the property from his father 5 years ago and did
366 not install these features. Barnick added that the landing will come out. Barnick stated that his
367 brother is in a wheelchair and takes the asphalt down there. Barnick stated he is attempting to
368 make a livable space on the property. Bender asked if he was removing the landing how much
369 concrete or asphalt they were going to remove. Barnick stated that he was not planning on
370 tearing any of it out at this time. Kovala stated based on all of the concrete and asphalt the
371 current lot coverage is at 40.6% per the application request. Kovala added that the regulations for
372 lot coverage maximum are 25%. Kovala stated that if Barnick wants to add a 2 story or walkout
373 basement then he will have do something with the blacktop. Kovala stated that there are 3
374 turnarounds on the property, indicating that blacktop will have to be removed to come into
375 compliance. Barnick stated that his brother is in a wheelchair and takes his van down to the lake

376 and that all of the decking is also for his brother. Kovala stated that adding gutters onto the
377 proposed structure would help with managing storm water.

378
379 Brufloft stated that 40.62% impervious coverage is almost double the maximum lot coverage.
380 Brufloft asked if Barnick could get it down to 25%. Barnick stated his actual coverage should be
381 less adding when he calculated the impervious coverage he included the decking which, he was
382 informed of later should not have been include. Brufloft stated that the decking should not have
383 that much impact on the percentage, adding that it is mostly the asphalt and concrete making up
384 the impervious coverage. Brufloft stated that the rain water is all going right down to the lake.
385 Brufloft stated that the proposed structure is right up to the shore impact zone and that the
386 structure is proposed to be taller than the current dwelling. Barnick stated that they would have
387 to tear down a bunch of trees if they had to move it back.

388
389 No one spoke in favor of the application. No one spoke against the application. There was no
390 written correspondence for the application. There was written correspondence against the
391 application from Rodger Hemphill, DNR Area Hydrologist. This was read by Patricia Swenson.

392
393 **RE: Steven & Brian Barnick Variance Request, 15877 W Little Cormorant Rd**

394
395 Dear Patty and the Becker County Board of Adjustment;

396
397 The DNR recommends denying the request for a variance to build new 35' x 26' structure 50 from the
398 OHWL of Little Cormorant Lake in Becker County. The structure setback for this lake is 100 feet.

399
400 In evaluating the facts and developing findings for a variance, all the following statutory criteria
401 must be satisfied, in addition to any local criteria:

- 402 · Is the variance in harmony with the purposes and intent of the ordinance?
403 · Is the variance consistent with the comprehensive plan?
404 · Are there unique circumstances to the property not created by the landowner?
405 · Will the variance, if granted, alter the essential character of the locality?
406 · Does the proposal put the property to use in a reasonable manner?

407
408
409 The last three criteria address practical difficulties. Economic considerations
410 alone cannot create practical difficulties. If the applicant demonstrates that
411 all criteria are met, then the variance may be granted. Variations should be
412 rare and for reasons of exceptional circumstance.

413
414 The application submitted by the landowner does not seem to meet the three criteria to establish
415 practical difficulty:

- 416 • The landowner does not explain how topography is a topographic issue for the new cabin.
417 • The landowner describes the asphalt drive as a practical difficulty which cannot be
418 considered as such because it was created by the current or former landowner.
419 • Considering that the application does not demonstrate a unique topographic circumstance,
420 there appears to be adequate room to construct the new cabin and meet the required
421 setbacks so reasonable use of the property would still be allowed.

422

423 It is noted that the proposed project would reduce impervious surface on the lot but because the
424 criteria for practical difficulty cannot be demonstrated the request should be denied.

425
426 **Rodger Hemphill**
427 Area Hydrologist | Ecological & Water Resources
428

429 At this time, testimony was closed and further discussion was held.

430
431 Brufloft asked where the setback averaging plus twenty (20) would put the house. Spaeth stated
432 it would have put the house way back up on the hill. Spaeth stated there was a variance in the file
433 to build an addition 58ft from the OHW. Spaeth stated that at 190 feet it is a very deep lot with
434 plenty of room to move further back. Spaeth also stated that the property should be under 25%
435 lot coverage. Spaeth stated the application should be denied as presented. Brufloft stated that the
436 proposal did not indicate the removal of any impervious items.

437
438 **Motion: Spaeth** made a motion to **deny**. Kovala Seconded.

439
440 Kovala ask Barnick if he would like to table the application and come back next month with a
441 new proposal. Barnick stated that they are trying to go smaller in the same spot. Spaeth stated if
442 you want to table you can come back with a new plan. Brufloft stated that it is not the proposed
443 size that is in question but the impervious coverage. Brufloft stated that he should take it down
444 to 25% coverage and mitigate the water runoff. Brufloft added that Barnick could leave it the
445 way it is now and build in the footprint or he can improve the property and make it meet the
446 coverage requirements. Brufloft stated mitigation such as french drains, would need to be
447 written down and drawn out in the proposal. Spaeth withdrew his motion to deny.

448
449 At this time, Barnick asked to have his application tabled until he was able to create an updated
450 site application, consider removing features to reduce his lot coverage to 25%, and re-stake the
451 new proposed project.

452
453 **FIFTH ORDER OF BUSINESS: Applicant: Matthew J & Kelly G Carrier 30290 W**
454 **Pickerel Lake Rd Detroit Lakes, MN 56501 Project Location: 20230 W Toad Lake Dr, Osage**
455 **MN 56570 LEGAL LAND DESCRIPTION: Tax ID number: 33.0282.000 Section 08 Township**
456 **139 Range 038 APPLICATION AND DESCRIPTION OF PROJECT: Request a variance to**
457 **construct an addition to a deck, on a non-conforming dwelling, to be located at eighty-one (81)**
458 **feet from the ordinary high water mark of the lake, deviating from the required setback of one**
459 **hundred (100) feet from the OHW on a recreational development lake.**

460
461 Swenson presented the application.

462
463 Matthew J Carrier was present. Carrier explained the application to the Board. Carrier requested
464 a variance to construct a 13x16 composite addition to a deck, on a non-conforming dwelling, to

465 be located at eighty-one (81) feet from the ordinary high water mark of the lake. Carrier stated
466 that this will be attached to a 4 season porch and replacing a portion of a deteriorating deck.

467
468 Spaeth asked where the existing deck is. Carrier stated the location can be seen in the drawing
469 submitted in the proposal. Carrier stated there is currently an 8x29 ft. deck and they are
470 requesting to add a nook on the east side of the current deck. Carrier noted that the original is
471 only 8 feet wide which is not accommodating to their needs.

472
473 Brufloft asked if there was going to be a new top surface only. Carrier stated the beams would
474 stay the same with new joists. Spaeth stated only the top surface replacement would be
475 considered non-structural and would not require a permit. Carrier asked if new headers would be
476 considered structural. Spaeth stated yes.

477
478 Bender asked about the proposed height of 3 feet. Carrier stated the plan is to sink it down from
479 the 8x29 ft. portion with steps down to the smaller portion. Carrier added they would like it to be
480 lower because they want a hot tub at some point. Carrier stated that the current 8x29 ft. deck
481 would not accommodate this, stating currently they have a table only.

482
483 Kovala stated when the Board was on the tour they noted there is a natural berm on the property,
484 resulting in all of the water from the property being contained and not going into the lake.

485 Brufloft asked if the berm was built or if it was natural. Carrier replied that it was natural.

486
487 Bender stated that in 2003 there was a variance approved for a dwelling ninety (90) feet from the
488 OHW. Bender stated that the house was built at one hundred (100) feet so the proposal is only
489 for an additional 9 feet further back for the deck and steps. Bender asked if there was something
490 they could build within the current approved variance. Carrier stated that they would like the
491 deck addition facing the lake. Carrier added he is aware that economic disparity is not a factor to
492 consider, however the cost would be additional to move the location as they would need more
493 decking to get it to the other side of the house. Johnston stated the request should be denied
494 because there is not practical difficulty.

495
496 No one spoke in favor of the application. No one spoke against the application. There was no
497 written correspondence for the application. There was written correspondence against the
498 application from Rodger Hemphill, DNR Area Hydrologist. This was read by Patricia Swenson.

499

500 **RE: Matthew Carrier, 20230 W Toad Lake Dr**
501 **Parcel 33.0282.000**

502
503
504 Dear Patty and the Becker County
505 Board of Adjustment;

506
507

508 The DNR recommends denying the request for a variance for a deck addition 82 feet from the OHWL
509 of Toad Lake in Becker County. The structure setback for this lake is 100 feet.
510

511
512 In evaluating the facts and developing findings for a variance, all the following statutory criteria must
513 be satisfied, in addition to any local criteria:

- 514 · Is the variance in harmony with the purposes and intent of
515 the ordinance?
- 516 · Is the variance consistent with the
517 comprehensive plan?
- 518 · Are there unique circumstances to the property not created by
519 the landowner?
- 520 · Will the variance, if granted, alter the essential
521 character of the locality?
- 522 · Does the proposal put the property to use in a
523 reasonable manner?
524
525

526 The last three criteria address practical difficulties. Economic considerations
527 alone cannot create practical difficulties. If the applicant demonstrates that all
528 criteria are met, then the variance may be granted. Variances should be rare and
529 for reasons of exceptional circumstance.

530
531 The application submitted by the landowner does not address any of the three
532 criteria to establish practical difficulty and therefore the request should be denied.
533

534 Thank you for the opportunity to comment,
535

536 **Rodger Hemphill**
537 Area Hydrologist | Ecological & Water Resources
538

539 At this time, testimony was closed. Chairman Brufloft opened the matter for discussion by the
540 Board.
541

542 Johnston asked if you are allowed to have a deck if you have a 100 foot setback. Patty stated a 1
543 time 240 square foot deck addition is what is allowed, advising this is over the size requirement.
544

545 Brufloft stated the proposal indicates the property is at 9% lot coverage. Bender added that there
546 is a natural berm.
547

548 Brufloft stated that the hot tub could go on the other side. Spaeth stated he was in favor to grant
549 the proposal due to the fact that when the house was built it could not go back any further and
550 they are stuck with a narrow deck. Spaeth added that the proposal goes with the neighborhood
551 and does not create any additional water runoff into the lake.
552

553 Bender added that the proposal is not excessive.
554

555 **Motion: Spaeth** made a motion to **approve** the variance request to construct an addition to a
556 deck at eighty-one (81) feet from the ordinary high water mark of the lake, deviating from the
557 required setback of one hundred (100) feet from the OHW on a recreational development lake.
558 **Bender second. All in favor. Motion carried. Variance approved.**
559

560 Spaeth adopted the staff findings into the motion.
561

562 **STAFF FINDINGS:**
563

564 **1. Is the variance request in harmony with the general purposes and intent of the**
565 **above citation? (yes) (no)**

566 **Explanation:** No.
567

568 **2. Is the variance consistent with the Becker County Comprehensive Plan? (yes) (no)**

569 **Explanation:** No
570

571 **3. Without a variance, is the owner deprived of reasonable use of the property? (yes)**
572 **(no)**

573 **Explanation:** No, there is an existing deck 8x29.
574

575 **4. Is the alleged practical difficulty due to circumstances unique to this property? (yes)**
576 **(no)**

577 **Explanation:** No, current structure location required a variance..
578

579 **5. Were the circumstances causing the practical difficulty created by someone or**
580 **something other than the landowner or previous landowner? (yes) (no)**

581 **Explanation:** No, previous variance was granted to Applicant.
582

583 **6. Will the issuance of the variance maintain the essential character of the locality?**
584 **(yes) (no)**

585 **Explanation:** Yes it is in a residential area.
586

587 **7. Does the alleged practical difficulty involve more than economic considerations?**
588 **(yes) (no)**

589 **Explanation:** No.
590

591 **SIXTH ORDER OF BUSINESS: Applicant: Steven B & Tammie R Ladoux P.O. Box 1404**
592 **Detroit Lakes, MN 56502 Project Location: 12620 S Abbey Lake Ln Detroit Lakes, MN 56501**

593 **LEGAL LAND DESCRIPTION: Tax ID number: 19.0724.000 Section 23 Township 138 Range**

594 **041 APPLICATION AND DESCRIPTION OF PROJECT: Request an after the fact variance**
595 **to construct an addition to an existing non-conforming dwelling at sixty-two (62) feet from the**

596 OHW of the lake and request an after the fact variance to construct a detached garage one
597 hundred forty-five (145) feet from the OHW, deviating from the required setback of one hundred
598 fifty (150) feet from a natural environment lake.

599
600 Swenson presented the application.

601
602 Owners Steven B & Tammie R Ladoux were not present.

603
604 Application was moved to the end of the hearing agenda.

605
606 **SEVENTH ORDER OF BUSINESS: Applicant: Applicant: Dallas D & Jackie L Nesemeier**
607 3227 156th Ave SE Casselton, ND 58012 **Project Location:** 24017 Co Hwy 22 Detroit Lakes,
608 MN 56501 **LEGAL LAND DESCRIPTION: Tax ID number:** 19.1794.000 & 19.1793.000
609 Section 19 Township 138 Range 041 & **Tax ID number:** 19.0409.000 Section 20 Township 138
610 Range 041 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a variance to
611 construct a dwelling 1 foot from the road right of way, deviating from the required setback of
612 forty-five (45) feet from the road right of way and 3.5 feet from the OHW.

613
614 Swenson introduced the application.

615
616 Dallas Nesemeier along with their representative Zenas Baer. Baer explained the application.
617 Baer requested a variance to construct a dwelling 1 foot from the road right of way, deviating
618 from the required setback of forty-five (45) feet from the ROW. Baer stated the lots are severally
619 substandard lots from the old Shoreham subdivision, platted in 1890. Baer explained that the
620 proposal is to remove several structures and reconfigure the lot line to decrease the non-
621 conformity of the lot to result in one modest lot. Baer stated the impervious coverage would
622 change from 2080 square feet to 1830 square feet. Baer stated the percentage is difficult to
623 identify because the surveyor could not provide a total square footage of the property. Baer
624 added that if they used the entire area under the deed it would result in 24% lot coverage. If they
625 used the smaller area 5480 square feet is unusable then it would be at 33% coverage. Baer stated
626 that the owner plans on mitigating by adding french drains to catch all water off of the structure
627 before it runs into the river. Baer stated that the intended reconfiguration of the proposal is to
628 enhance water quality.

629
630 Baer stated the plan is consistent with the Becker County Comprehensive Plan. Baer stated the
631 plan allows for the human occupation of cabins. He added in 1890's there were severely
632 constrained cabins on these properties. Baer stated the proposed plan will add an attractive
633 addition to the area and enhance the curb appeal of the corner.

634
635 Baer stated with the lot reconfiguration a portion of the road will be vacated, as part of the
636 existing structure sits on top of the ROW on a platted street from 1890. Baer added that County

637 Highway 22 that goes through this area does not have a deeded ROW or easement just an
638 assumed thirty-three (33) feet. Baer explained that once the area was vacated the concrete would
639 be removed and a rain garden would be planted in its place.

640
641 Baer described in 2016 a home was constructed to the east of the Hotel Shoreham which is
642 similar in style. He added there are other 2 story homes in the area, making this proposal flow
643 with the character of the neighborhood.

644
645 Spaeth asked if exhibit 7 is the parcel number that is going to be part of the new home proposal.
646 Baer stated that the lot line will be realigned, referencing the drawing on the site permit
647 application. Baer explained the heavy darker line is the proposed new lot line split off from the
648 other parcel. Spaeth asked if by splitting the portion off if it is making the parcel more non-
649 conforming. Baer replied both properties are substandard.

650
651 Bender asked if the deck is being built over the river. Baer referenced the proposed site permit
652 application map showing the structure reconfiguration. Baer stated the current corner of the
653 house is almost in the river tipping over the bank. Kovala asked what the setback requirement is
654 from the river. Swenson replied the setback was one hundred feet (100). Spaeth stated we cannot
655 go by normal here, this is an improvement, and he can build in the footprint without a variance.

656
657 No one spoke in favor of the application.

658
659 James Bond spoke against the application. Bond stated he resides 2 blocks west of the proposed
660 project. Bond requested clarification on the size of the proposed house. Bond stated that on other
661 structures in the area are very small cabins, adding that the proposal may be out of place with the
662 community. Bond also stated concern for the proposed location to the river. Bond stated that for
663 50 years the current structure was a boat rental and fishing supply store, which also sold gas and
664 oil. Bond asked if there was still an underground tank on the property. Bond stated he had
665 concern about the distance from the road to the river adding that a mile west on Lake Sallie a
666 resident tried to build something similar and was turned down on a property that was wider than
667 the one in the proposal. Bond also proposed concern about the 3 large trees on the property and
668 wanted to know if they were going to be removed. Nesemeier replied that the trees would not be
669 removed. Bond asked if it was vacant could they build there. Spaeth stated if it was vacant they
670 could not build there, but without a variance they could build the same size in the footprint,
671 adding that the proposal is not the same size.

672
673 Neighbor Kristine Christiansen, owner off 19.1766.000 3350 39th Ave S, spoke about the
674 application. Christiansen asked for clarification on the 1 foot requested setback from the ROW.
675 Christiansen stated she had young teenage drivers in the house and did not want the location to
676 further cause safety hazards when backing out on top the Hwy. Dallas stated the house will be

677 placed where it is now, no further. Christiansen stated that the current location does not cause a
678 hazard now as is and that Nesemeier owns several properties in the area and maintains them very
679 well.

680
681 There was no written correspondence for the application. There was written correspondence
682 against the application from Brent Alcott, Pelican River Watershed District Assistant
683 Administrator. This was read by Patricia Swenson.

684
685 Patty,

686
687 After reviewing the packet for the upcoming Board of Adjustment meeting, there were
688 two projects that may require PRWD permit if approved.

689
690 Dallas and Jacki Nesemeier, 24017 Co Hwy 22- If approved the project will require a
691 stormwater management permit for over 25% impervious surface and Shore Impact Zone
692 alteration. Please inform the owners to contact PRWD for permitting prior to any
693 construction of alterations.

694 Let me know if you have any questions:

695
696 **Brent Alcott** | *Assistant Administrator*
697 Pelican River Watershed District

698
699 There was also written correspondence against the application from Tera L. Guetter, Pelican
700 River Watershed District Administrator. This was read by Patricia Swenson.

701
702 Thursday, June 8, 2017
703
704 Becker County Planning Commission
705 915 Lake Ave.
706 Detroit Lakes, MN 56501

707
708 Re: Dallas & Jackie Nesemeier-Parcel
709 #19.179.4000,19.179.3000,19.0409.000
710 Variance request to construct a dwelling 1' from Becker County Hwy
711 22 deviating from the required setback of 45' from the road right-
712 of-way

713 Dear Planning Commission:

714
715
716 On behalf of the Board of Managers I offer the following comments on the above
717 referenced request:

- 718
719
720 1. Impervious surface coverage calculation-It appears the applicant is using
721 area that is included in the County Hwy 22 road right-of-way, have they
722 included the road area which is impervious surface in their final calculation?
723 In addition, are these lots legally combined? If not the amount of impervious
724 surface is incorrectly calculated. How does the homeowner propose to

725 handle storm water runoff from the site since it is so close to the river and
726 next to Becker County Hwy 22?

727

728 2. Setback variances-The application states the proposed setback is 3.5 ft less
729 than the minimum distance of the OHW of the Pelican River. What is the
730 proposed setback from the Pelican River and that surface area is located in
731 the shore impact zone? The proposed structure is setback only 1 ft. from
732 Becker County Hwy 22 road right-of-way which is a safety hazard liability for
733 this high traffic road.

734 3. Septic System- Is the proposed septic system adequate for this new
735 structure? Where is an alternative site located?

736

737 The District recommends denial of this application based upon the findings the
738 homeowner could reduce the proposed structure footprint and they have
739 substantial deviations from the required structure setbacks.

740

741 Thank you for your consideration and opportunity to comment on this matter.

742

743 Sincerely,
744 Tera L. Guetter
745 Administrator
746

747 At this time, testimony was closed and further discussion was held.

748

749 Spaeth asked what the shore impact zone was. Swenson replied fifty (50) feet.

750

751 Spaeth asked if the tank was still there. Baer stated that the tank was just re-permitted. Nesemeier
752 added that they do not sell gas.

753

754 Johnston stated he was concerned as the proposal does not meet the setbacks, as it is 1 foot from
755 Hwy 22 ROW; the impervious coverage is too high and added that they could rebuild without
756 expansion.

757

758 Kovala stated the size of the house is not suited for the lot.

759

760 Bruflodt said they could not mitigate enough to protect the river.

761

762 Spaeth adopted the staff findings into the motion.

763

764 Baer stated in the 1890's they had concentrated housing there. Baer stated that if you have a plat
765 with small lots and you mitigate it should be encouraged to put all of these types of structures in

766 one area like they are here. Baer stated that the 1 foot setback from the ROW is assumed, it was
767 approximated for the Shoreham subdivision. Baer added that the homes in this area are on the
768 platted ROW because there was not much attention given to detail. Baer stated they should
769 encourage the maintenance, repair, and character of the community that was in 1890.

770

771 Brufloft stated the best thing would be to remove everything from this corner.

772

773 Nesemeier stated that he has lived in the area since he was 6 years old. He is retired and wants to
774 stay in the same community that he has lived all of his life. Nesemeier stated he has several
775 children and 16 grandchildren in the area and they would like to be close to family. Brufloft
776 stated that they speak with residents frequently who have lived on their land all of their lives who
777 do not have the proximity.

778

779 At this time, Baer asked to have the application tabled his application until he was able to create
780 a new proposal, reconsidering the impervious coverage.

781

782 **EIGHTH ORDER OF BUSINESS: Applicant: Frank R & Judith Thompson** 15578 Maple
783 Ridge Rd, Audubon, MN 56511 Project **Location:** 15578 Maple Ridge Rd, Audubon, MN

784 56511 **LEGAL LAND DESCRIPTION:** Tax ID number: 17.0968.000 Section 04 Township 138

785 Range 042 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a variance to
786 construct a shed thirty-six (36) feet from the OHW of the lake, deviating from the required
787 setback of one hundred (100) feet from the OHW on a recreational development lake.

788

789 Swenson introduced the application.

790

791 Owners Frank R & Judith Thompson were not present.

792

793 No one spoke in favor of the application. No one spoke against the application. There was no
794 written correspondence either for or against the application. At this time, testimony was closed
795 and further discussion was held.

796

797 Johnston stated they were unable to table the application due to the 60 day rule.

798

799 Bender stated the application must be denied as proposed.

800

801 Spaeth stated there are many structures on this site adding that the shed could be located in the
802 backyard.

803

804 Bender stated he sees no hardship related to the proposal. Bender added that they could easily
805 move the shed over and not need a variance.

806

807 **Motion: Spaeth** made a motion to **deny** the variance request to construct a shed thirty-six (36)
808 feet from the OHW of the lake finding that the project request is in the shore impact zone.
809 **Bender second. All in favor. Motion carried. Variance denied.**

810
811 **NINTH ORDER OF BUSINESS: Applicant: Steven B & Tammie R Ladoux** P.O. Box 1404
812 Detroit Lakes, MN 56502 **Project Location:** 12620 S Abbey Lake Ln Detroit Lakes, MN 56501
813 **LEGAL LAND DESCRIPTION:** Tax ID number: 19.0724.000 Section 23 Township 138 Range
814 041 **APPLICATION AND DESCRIPTION OF PROJECT:** Request an after the fact variance
815 to construct an addition to an existing non-conforming dwelling at sixty-two (62) feet from the OHW
816 of the lake and request an after the fact variance to construct a detached garage one hundred forty-
817 five (145) feet from the OHW, deviating from the required setback of one hundred fifty (150) feet
818 from a natural environment lake.

819
820 Swenson presented the application.

821
822 Owners Steven B & Tammie R Ladoux were not present.

823
824 No one spoke in favor of the application. No one spoke against the application. There was
825 written correspondence for the application from Dennis and Sheila Craswell. This was read by
826 Patricia Swenson.

827
828 I am Dennis Craswell. My property is next to the Ladoux they keep a clean and tidy
829 home and yard next to me and the improvements they have made have been a great
830 improvement to their land and to the neighborhood. I and all others around this lake agree
831 that this is the case we are in favor of their approval.

832
833 Dennis and Sheila Craswell.

834
835 There was written correspondence against the application from Rodger Hemphill, DNR Area
836 Hydrologist. This was read by Patricia Swenson.

837
838 **RE: Steven Ladoux,**
839 **12620 S Abbey Lake Ln**

840
841
842 Dear Patty and the Becker County
843 Board of Adjustment;

844
845
846 The DNR recommends denying the request for a variance for an addition to the dwelling 62 feet from
847 the OHWL and a garage 145 feet from the OHWL of Abbey Lake in Becker County. The structure
848 setback for this lake is 150 feet.

849
850 In evaluating the facts and developing findings for a variance, all the following statutory criteria
851 must be satisfied, in addition to any local criteria:

- 852 · Is the variance in harmony with the purposes and intent
853 of the ordinance?
854 · Is the variance consistent with the
855 comprehensive plan?
856 · Are there unique circumstances to the property not created
857 by the landowner?
858 · Will the variance, if granted, alter the essential
859 character of the locality?
860 · Does the proposal put the property to use in a
861 reasonable manner?
862
863

864 The last three criteria address practical difficulties. Economic considerations
865 alone cannot create practical difficulties. If the applicant demonstrates that all
866 criteria are met, then the variance may be granted. Variances should be rare
867 and for reasons of exceptional circumstance.

868
869 The application submitted by the landowner does not address any of the three
870 criteria to establish practical difficulty and therefore the request should be
871 denied.

872
873 Thank you for the opportunity to comment,

874 **Rodger Hemphill**

875 Area Hydrologist | Ecological & Water Resources
876
877

878 There was also written correspondence against the application from Brent Alcott, Pelican River
879 Watershed District Assistant Administrator. This was read by Patricia Swenson.

880
881 Patty,

882
883 After reviewing the packet for the upcoming Board of Adjustment meeting, there
884 were two projects that may require PRWD permit if approved.
885

- 886 1. Steven Ladoux, 12620 S Abbey Lake Ln- In the past, the Board has
887 approved projects similar to this on Abbey Lake. In one case they made
888 as a condition of approval that the shoreline be restored to native
889 vegetation. If the same happens for this project, please make aware to
890 the owners that any work in the Shore Impact Zone will require a PRWD
891 permit.
- 892 2. Dallas and Jacki Nesemeier, 24017 Co Hwy 22- If approved the project will
893 require a stormwater management permit for over 25% impervious surface
894 and Shore Impact Zone alteration. Please inform the owners to contact
895 PRWD for permitting prior to any construction of alterations

896 Let me know if you have any questions:
897

898 **Brent Alcott** | *Assistant Administrator*
899 Pelican River Watershed District
900

901 Bender stated the whole house was in the shore impact zone. Spaeth asked what was the SIZ on
902 this lake. Swenson stated the shore impact zone on this property was seventy-five (75) feet.
903 Spaeth asked when the dwelling was built. Swenson replied 1968.

904
905 Spaeth stated there is plenty of room on the parcel to build further back adding
906 financial/economic hardship is not a factor to consider.

907
908 Bender agreed there is ample room to move back.

909
910 **Motion: Spaeth** made a motion to **deny** an after the fact variance to construct an addition to an
911 existing non-conforming dwelling at sixty-two (62) feet from the OHW of the lake, deviating
912 from the required setback of one hundred fifty (150) feet from a natural environment lake.
913 Spaeth stated if it was presented to the Board as a variance request before the fact they would not
914 have granted it because it is in the shore impact zone and there is adequate area to build back.
915 **Bender second. All in favor. Motion carried. Variance denied.**

916
917 **Motion: Spaeth** made a motion to **deny** an after the fact variance to construct a detached garage
918 one hundred forty-five (145) feet from the OHW, deviating from the required setback of one
919 hundred fifty (150) feet from a natural environment lake. Spaeth stated there is adequate room
920 for the garage to be 5 feet further back and no variance would be needed. **Johnston second. All**
921 **in favor. Motion carried. Variance denied.**

922
923 **TENTH ORDER OF BUSINESS: Informational Meeting.** The next informational meeting
924 is scheduled for Thursday, July 6th, 2017 at 7:00 am in the 3rd Floor Meeting Room of the
925 Original Courthouse.

926
927 As there was no further business to come before the Board, Kovala made a motion to adjourn the
928 meeting. Spaeth seconded. All in favor. Motion carried. Meeting adjourned.

929
930 _____ ATTEST _____
931 Jim Brufloft, Chairman Patricia Swenson,
932 Interim Planning and Zoning Supervisor