

Becker County Board of Adjustments
July 9th, 2020

Present: Members: Chairman Jim Bruflodt, Roger Boatman, Lee Kessler, Delvaughn King, Michael Sharp, Zoning Administrator Kyle Vareberg and E911/Zoning Technician Rachel Bartee.

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

Introductions were given.

Kessler made a motion to approve the minutes for the June 11th, 2020 minutes. **King** seconded. The motion passed unanimously. All in favor, Motion carried.

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

OLD BUSINESS:

FIRST ORDER OF BUSINESS: APPLICANT: Peter and Ellen Kaiser 5017 Skyline Dr Minneapolis, MN 55436 **Project Location:** 34000 Cedar Lake Rd Park Rapids, MN 56572 **LEGAL LAND DESCRIPTION: Tax ID Number: 34.0008.501; APPLICATION AND DESCRIPTION OF PROJECT:** Request a variance to construct a dwelling to be located at ninety (90) feet from the OHW of the lake, deviating from the required setback of one hundred fifty (150) feet from a natural environment development lake, due to setback issues. Tabled by applicant at the June 11th, 2020 Hearing.

Vareberg presented the application.

Peter and Ellen Kaiser and contractor Mike Brandstrom were present virtually/on the phone. Peter explained his application to build a dwelling closer than 150' from the OHW of a Natural environment lake. Kaiser explained that during the Board tour they spoke with contractor Mike Brandstrom who was present. Kaiser stated he was willing to modify the request from 85' to 120' feet from the lake.

Bruflodt asked what the hardship is. Kaiser stated there is a ridge preventing them from locating it elsewhere. Bruflodt asked if the ridge could be taken down. Kaiser stated they would agree to move it back to 120' to the top of the ridge. Bruflodt asked why they could not meet the 150' setback. Kaiser stated there is a ridge where the road is and the other side drops into a marshy area, they do not want to build in the marshy area.

43 Boatman stated there is no practical difficulty and there is plenty of room on the lot to build
44 elsewhere. Kaiser replied it would be destructive to the topography of the lot to dig into the hill.
45 Brufloft asked destructive to what. Kaiser replied it would be destructive and require much more
46 effort to move that much earth around when there is already a natural location for the building to
47 be placed. Brufloft stated then this is an economic hardship/issue. Kaiser stated it would be a
48 headache to disrupt this much land when there is a natural building location closer to the lake,
49 and the proposal would not negatively impact the lake or any neighbors. Brufloft replied the
50 Ordinance states you must be 150' back from the OHW on this lake.

51
52 Sharp stated they received communication from the Two Inlets Township Board stating they feel
53 the building should be moved to the north and should meet the 150' setback. Sharp asked if the
54 building can be moved to the north, noting there is ample real estate to move the structure.
55 Kaiser stated as you go to the north along the lake it drops off, this is an easier spot. Kessler
56 asked why the building cannot be moved to another location. Kaiser replied that it is possible
57 with enough money, however there is a natural location to place it at 120'. Kessler asked when
58 he bought the lot. Kaiser replied a few years ago. Kessler asked if he was aware when he bought
59 the lot that it was on a natural environment lake. Kaiser replied yes, he was, but did not realize he
60 would not be able to build in this location. Sharp stated there is plenty of high ground on the lot
61 to build that would meet the setbacks.

62
63 Vareberg read written correspondence.

64
65 Letter from Two Inlets Township Board dated June 3rd, 2020:

I am again writing on behalf of the Two Inlets Township Board concerning the proposed Kaiser project at
34000 Cedar Lake Road Park Rapids.

We believe there is adequate space on this property to place their home within current county codes. Fill can
be used to properly level the sight or a move of the structure to the north a little would give them plenty of
room. The property is large and we see no hardship in following current codes.

David Keller
Two Inlets Township Supervisor

66
67 Letter from Two Inlets Township Board dated July 7, 2020:

I am again writing on behalf of the Two Inlets Township Board concerning the proposed Kaiser project at 34000 Cedar
Lake Road Park Rapids.

We believe there is adequate space on this property to place their home within current county codes. Fill can be used to
properly level the sight or a move of the structure to the north a little would give them plenty of room. The property is
large and we see no hardship in following current codes.

68
69
70 Letter from Rodger Hemphill, DNR area Hydrologist dated June 11, 2020:

Kyle,

The DNR recommends denying the request for a variance to place a dwelling 60 feet from the OHWL of Hungry Man Lake in Becker County. The structure setback for this relatively undeveloped, natural environment (NE) lake is 150 feet. If this variance is granted it would put the dwelling in the shore impact zone for the lake.

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

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

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

The application submitted by the landowner does not adequately address any of the criteria to establish practical difficulty and therefore the request should be denied.

Thank you for the opportunity to comment,

Rodger Hemphill
Area Hydrologist | Ecological & Water Resources

Minnesota Department of Natural Resources
14583 County Highway 19
Detroit Lakes, MN 56501
Phone: 218-846-8484
Cell: 218-849-8464
Email: Rodger.Hemphill@state.mn.us
mndnr.gov



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Letter from Rodger Hemphill, DNR area Hydrologist dated July 7th, 2020:

Kyle,

The DNR recommends denying the request for a variance to place a dwelling 90 feet from the OHWL of Hungry Man Lake in Becker County. The structure setback for this relatively undeveloped, natural environment (NE) lake is 150 feet.

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

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

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

The application submitted by the landowner has changed the distance from the lake but still **does not adequately address any of the criteria to establish practical difficulty**, therefore the request should be denied.

Thank you for the opportunity to comment,

Rodger Hemphill

Area Hydrologist | Ecological & Water Resources

Minnesota Department of Natural Resources

14583 County Highway 19

Detroit Lakes, MN 56501

Phone: 218-846-8484

Cell: 218-849-8464

Email: Rodger.Hemphill@state.mn.us

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75

76 Letter from neighbor Don Eischens, June 5th, 2020:

77

Dan EISCHENS

57426 Co Hwy 44

Park Rapids MN

R.E. VARIANCE Peter Kaiser TAX ID 34,000.501
Section 02 Township 141 Range 036 N.E. 1/4, NE 1/4
Gov Lot 1 Two Inlets Township

First item is the setback issue

- There shouldn't be a setback issue. There is a lot of land on the acreage to build on, so he doesn't have to infringe on the shoreline of a pristine environmental lake.

Other Questions Review

#1. There isn't ANY run off and aesthetic reason. There is no neighbors. The lake is surrounded by state land, so everybody is entitled to use it.

#2. According to variance to will be a log cabin structure. According to dictionary cabin is a modest structure. So when does a 52' x 90' structure is a modest structure to over 7000 square feet
over

#3 The statement that bothers me the most is "IN order to achieve what we want is to have to move a lot of dirt to get a lake facing property - moving the dirt would cause a less compact foundation and worse for building on. The soil is sand + gravel subsoil so this should not be an issue.

#4)

The unique facet is the remoteness. So does a massive structure fit in. No it doesn't.

As far as the road - this road has been open to the public as long as I have lived in this area, all my life. So the road has been there before he was born. So what is the uniqueness of the road.

All the reasons above should result in a denial of the variance

Don Erickson

79

80 All letters are on file in the Becker County Zoning Office.

81

82 No one spoke for or against the application. At this time, testimony was closed. Chairman
83 Brufloft opened the matter for discussion by the Board.

84

85 Brufloft advised Kaiser that he is allowed to table his application at any time.

86

87 Brufloft stated this is a massive structure and will impact the view on the lake. Kessler stated
88 they have heard lots of measurements to the proposed OHW setback, first 60', 85' and now 120',
89 do we really know where the OHW is located, can the DNR confirm it. Vareberg replied no, the
90 OHW has not been established on this lake. Brufloft replied, therefore we have to measure from
91 the waters edge. Kessler replied 120' gets them 4 feet to the backside of the road, did anyone
92 measure to 150' to see what the topography would be at that distance. How steep would it get at
93 150'. Brufloft stated the Board are not designers. Sharp replied there was a substantial slope at

94 that point. Boatman stated he is not in favor of the project, this is not a modest structure, it is
95 going to be imposing all around the lake, that is not the intent of the Ordinance. Bruflodt replied
96 moving the structure back another 20-30' to meet the 150' setback is not that much further to
97 move back. Sharp stated this request does not meet the forth requirement of a variance, this is
98 not a circumstance unique to the property, there are other locations on the property he can build,
99 there is no practical difficulty here. Kessler stated he agreed, this is not a modest request and it
100 will impose on the lake.

101
102 **Motion:** Boatman made a motion to **deny** a variance to construct a dwelling to be located at
103 ninety (90) feet from the OHW of the lake, deviating from the required setback of one hundred
104 fifty (150) feet from an natural environment development lake, due to setback issues. Denied due
105 to the fact there is no practical difficulty or hardship, the structure would be imposing on the
106 lake, the circumstance is not unique to the property, and the lot is of adequate size to meet the
107 required setback.

108
109 **Sharp second.** Boatman, Sharp, Kessler were in favor. King opposed **Motion carried.**
110 **Variance denied.**

111
112 **NEW BUSINESS:**

113
114 **SECOND ORDER OF BUSINESS: APPLICANT: Jeffrey & Amy McKinnon 4377 46th**
115 **Ave S Fargo, ND 58104 Project Location: 15238 E Munson Dr Detroit Lakes, MN 56501**
116 **LEGAL LAND DESCRIPTION: Tax ID Number: 19.1151.000; APPLICATION AND**
117 **DESCRIPTION OF PROJECT:** Request a variance to construct a second story addition to an
118 existing non-conforming detached garage, to be located at four (4) feet from the side property
119 line, due to setback issues and lot size.

120
121 Vareberg presented the application.

122
123 Amy McKinnon was present virtually/on the phone. McKinnon explained the existing cinder
124 block structure is non-conforming at 4' from the side property line and they want to rebuild in
125 the same location. McKinnon stated the current garage is sunken with a dirt floor.

126
127 Bruflodt asked what the hardship is. McKinnon replied the current garage leaks, it is leaning in,
128 it is rotten, there is water damage and everything in it gets wet and dirty making it a useless
129 space at this time.

130
131 Boatman asked if it was going to be used for storage only. McKinnon replied yes, the back
132 portion will be for my husband's woodworking shop, the loft would be to store lake toys and
133 kayaks.

134

135 No one spoke for or against the application. There was no written correspondence for or against
136 the application. At this time, testimony was closed. Chairman Bruflodt opened the matter for
137 discussion by the Board.

138
139 Kessler stated the building is in disrepair and could use an improvement. Kessler noted they are
140 staying in the same footprint just increasing the height to add a loft level.

141
142 Bruflodt asked if the roof would be asphalt or steel. McKinnon replied it would be asphalted to
143 match the house.

144
145 **Motion:** Sharp made a motion to **approve** a variance to construct a second story addition to an
146 existing non-conforming detached garage, to be located at four (4) feet from the side property
147 line, due to setback issues and lot size, due to the fact the footprint will remain the same, with the
148 stipulation stormwater must be controlled with gutters, downspouts and french drains.

149
150 **Boatman second.** All in favor. **Motion carried.** Variance **approved.**

151
152 **THIRD ORDER OF BUSINESS: APPLICANT: Mark Jennen** 19177 Sherman Shores Rd
153 Audubon, MN 56511 **Project Location:** 19177 Sherman Shores Rd Audubon, MN 56511
154 **LEGAL LAND DESCRIPTION: Tax ID Number:** 02.0310.000; Section 33 Township 139
155 Range 042; SHERMAN SHORES LOT 3; **APPLICATION AND DESCRIPTION OF**
156 **PROJECT:** Request a variance to construct a shed to be located at ten (10) feet from the side
157 property line, due to setback issues.

158
159 Vareberg presented the application.

160
161 Mark Jennen was present. Jennen explained his application for a shed to be located 10' from the
162 side property line. Jennen stated the hardship is due to the fact the property is zoned agricultural
163 which requires a 20' setback, where a residential lot requires only a 10' setback.

164
165 Sam Rufer joined the meeting on the phone/virtually. Rufer was present on behalf of neighbor,
166 Julie Archer of Archer Family Revocable Living Trust, owner of parcel 020311001, 19155
167 Sherman Shores Rd. Rufer stated they are not in favor of the proposed project. Rufer stated the
168 location is not suitable, it is too close to the property line, it will impact the natural vegetation,
169 and it will negatively impact the Archer's property value. Rufer stated the structure is not in
170 character with the area/neighborhood, noting these types of structures should be built in
171 agricultural areas, away from the lake. Rufer stated this is a very residential area with mostly
172 cabins. Rufer stated this structure would be the first of its kind in the area. Rufer noted other
173 similar structures in this area are small detached ones. Rufer stated there is only one other similar
174 structure in the area. Rufer stated the hardship was created by the landowner because of where
175 they placed the drainfield, not due to some topography issue. Rufer stated this is a want not a
176 need. Rufer requested the Board deny the application.

177
178 No one spoke for the application. There was no written correspondence for or against the
179 application. At this time, testimony was closed. Chairman Brufloft opened the matter for
180 discussion by the Board.

181
182 Boatman asked Jennen what the proposed dimensions were. Jennen replied 32'x50' or 32'x48'
183 with a 12' wall height. Jennen stated he was unsure of the exact overall height as he did not
184 know the exact roof pitch at this time. Boatman asked if he would be willing to make it smaller.
185 Jennen stated it will look like a residential building with siding not a steel building. Jenner stated
186 the Archer's other neighbor built a similar 30'x40' pole building that is steel sided. Kessler
187 stated this property is zoned agricultural, however if it was zoned residential the setback would
188 be 10'. Kessler stated it seems to him there are lots of similar buildings in this area, in fact there
189 was one across the road, adding he felt this was an acceptable request. Brufloft stated this is not
190 an excessive size. Brufloft stated the Planning Commission typically does not like to spot zone.
191 Brufloft stated this land is being used residentially and not agriculturally.

192
193 **Motion: Kessler** made a motion to **approve** a variance, to construct a shed to be located at ten
194 (10) feet from the side property line, due to setback issues, due to the fact that it is the best
195 placement on the lot, it is a minimal request, the practical difficulty is not due to the land owner,
196 the hardship is due to the fact the lot is zoned agricultural, if it was zoned how it was being used
197 (residentially) the setback would be ten (10) feet.

198
199 **King second.** All in favor. **Motion carried.** Variance **approved.**

200
201 **FORTH ORDER OF BUSINESS: APPLICANT: Sharon & Dale Wilhelmi** 402 7th Ave E
202 Thompson, ND 58278 **Project Location:** 35305 325th Ave Ogema, MN 56569 **LEGAL LAND**
203 **DESCRIPTION: Tax ID Number: 20.0399.000;** Section 26 Township 142 Range 040; PT
204 GOVT LOT 6 BEG 114.87' W & 596.18' SW OF MC #22;TH CONT SW 69.23',S 57.8',SE
205 145.77' TO LK,NELY AL LK TO PT SE OF POB,TH NW 138.52' TO POB, **APPLICATION**
206 **AND DESCRIPTION OF PROJECT:** Request a variance to construct a detached garage to be
207 located at five (5) feet from the ROW of a township road, deviating from the required setback of
208 twenty (20) feet from the ROW on a dedicated township road and to be ninety-one (91) feet from
209 the OHW, deviating from the required setback of one hundred (100) feet from a recreational
210 development lake, due to setback issues and lot size.

211
212 Vareberg presented the application.

213
214 Sharon & Dale Wilhelmi were present. Wilhelmi explained they are moving it back as far as they
215 can because of the hill, the lake and the road. Wilhelmi stated they are willing to modify their
216 request to be located at 87' from the OHW as discussed during the Board tour to allow more
217 room from the ROW. Wilhelmi also agreed to modify their request to be located 10.2' from the
218 ROW.

219
220 Sharp noted gutters, to downspouts to french drains should be installed to control stormwater
221 runoff.

222
223 No one spoke for or against the application. There was no written correspondence for or against
224 the application. At this time, testimony was closed. Chairman Brufloft opened the matter for
225 discussion by the Board.

226
227 Kessler stated he was concerned the original request is too close to the ROW, but was in favor
228 to move it back 5' to be at 10' from the ROW. Brufloft agreed it is difficult to meet setbacks on
229 Strawberry Lake.

230
231 **Motion:** Sharp made a motion to **approve** a variance, as modified to construct a detached garage
232 to be located at **ten (10) feet**, modified from the requested five (5) feet from the ROW of a
233 township road, deviating from the required setback of twenty (20) feet from the ROW on a
234 dedicated township road and to be **eighty-seven (87) feet**, modified from the requested ninety-
235 one (91) feet from the OHW, deviating from the required setback of one hundred (100) feet from
236 a recreational development lake, due to setback issues and lot size, due to the fact it is a
237 reasonable request, it is on the best placement of the lot, and the proposal conforms with the
238 neighborhood, with the stipulation stormwater is controlled with gutters, to downspouts, to
239 french drains.

240
241 **Boatman second.** All in favor. **Motion carried.** Variance **approved.**

242
243 **FIFTH ORDER OF BUSINESS: APPLICANT: Gerald and Gloria Heldt** 211 Schooner
244 Lane Duck Key, FL 33050 **Project Location:** 56885 290th St Park Rapids, MN 56470 **LEGAL**
245 **LAND DESCRIPTION: Tax ID Number: 34.0155.000;** Section 35 Township 141 Range 036;
246 PT GOVT LOT 1: COMM NE COR, S 33.27', WLY AL RD 441.43' TO POB; WLY AL RD
247 685.06', S 86' TO FOOLS LK, NELY & ELY AL LK 637.29', N 523' TO POB.
248 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a variance to construct an
249 attached garage to a non-conforming dwelling, to be located at ninety-three (93) feet from the
250 OHW of the lake, deviating from the required setback of one hundred fifty (150) feet from an
251 natural environment lake, due to setback issues.

252
253 Vareberg presented the application.

254
255 Gerald Heldt was present. Heldt explained his application of an attached garage to a non-
256 conforming dwelling, to be located at ninety-three (93) feet from the OHW of the lake. Heldt
257 stated he purchased the property 2 years ago. Heldt explained that since they purchased the lot
258 his wife has had a stroke, therefore there is a need for an attached garage on the back of the
259 house so they can load and unload the wheelchair. Heldt stated the house is 60' from the lake and
260 the house is 40' deep, however when the Zoning Office came out to measure the nearest point to
261 the OHW they got 93'.

262 Brufloft asked what will be done with the existing garage. Heldt replied they will leave it there
263 and use it for storage. Brufloft noted with 4.1 acres they have a low impervious coverage.

264
265 Vareberg read a letter from Jed Knuttila dated 6/29/2020.

I received your variance request and am responding to the Heldt request. Being a biologist, my main concern
in the distance from the new structure to the lake. The original ordinance is in place to protect the lake. And I
thing you should stick with the existing ordinance.

266
267 Letter is on file in the Becker County Zoning Office.

268
269 No one spoke for or against the application. There was no written correspondence for the
270 application. At this time, testimony was closed. Acting Chairman Boatman opened the matter
271 for discussion by the Board.

272
273 Kessler stated that the water is currently high on that lake, it is probably 15' further now. Kessler
274 noted the house is in the shore impact zone however the garage addition is in the back of the
275 house. Brufloft asked if the house could be moved. King replied no, not likely. Kessler stated it
276 is uncertain where the SIZ really is and the OHW cannot be calculated due to fluctuating water
277 levels.

278
279 **Motion:** Kessler made a motion to **approve** a variance to construct an attached garage to a non-
280 conforming dwelling, to be located at ninety-three (93) feet from the OHW of the lake, deviating
281 from the required setback of one hundred fifty (150) feet from a natural environment lake, due
282 to setback issues, with the stipulation stormwater is controlled with gutters, to downspouts, to
283 french drains.

284
285 **Sharp second.** All in favor. **Motion carried.** Variance **approved.**

286
287 **SIXTH ORDER OF BUSINESS:**

288
289 **Informational Meeting.** The next informational meeting is scheduled for Thursday, August 6th,
290 2020 at 8:00 a.m. in the 3rd Floor Meeting Room of the Original Courthouse. As there was no
291 further business to come before the Board, Kessler made a motion to adjourn the meeting. King
292 seconded. All in favor. Motion carried. Meeting adjourned.

293
294 _____ ATTEST _____
295 Chairman Jim Brufloft Kyle Vareberg,
296 Planning and Zoning Administrator
297