

Becker County Board of Adjustments
June 9th, 2022

Present: Members: Chairman Roger Boatman, Michael Sharp, Craig Hall, Justin Knopf, Delvaughn King, Dan Josephson and Zoning Administrator Kyle Vareberg and Office Support Specialist Nicole Hultin.

Chairman Roger Boatman called the meeting to order at 6:00 p.m. Office Support Specialist Nicole Hultin recorded the minutes.

Introductions were given.

Hall made a motion to approve the minutes from the May 12th, 2022, meeting. **King** seconded. All in favor, Motion carried.

OLD BUSINESS:

Hall made a motion to appoint Roger Boatman as Chairman and Michael Sharp and Vice Chairman. **King** seconded. All in favor, Motion Carried.

There was no further Old Business to discuss.

Chairman Roger Boatman explained the protocol for the meeting.

Vice Chairman Michael Sharp read the guidelines of the Minnesota statutes the board must follow in order to support or deny any request.

NEW BUSINESS:

FIRST ORDER OF BUSINESS: APPLICANT: Anthony T Johnson & Melinda Johnson
221 Kusilek St River Falls, WI 54022 **Project Location:** 24176 Woodland Ln Detroit Lakes,
MN 56501 **Tax ID Number:** 19.0120.000 **LEGAL LAND DESCRIPTION:** Section 08
Township 138 Range 041; 08-138-041 PT GOVT LOT 2: COMM MOST WLY COR LOT 28
WOODLAND BCH TH NELY AL RD 201.98' TO NELY COR LOT 30, NLY 33.15', SWLY
100' TO POB; SWLY AL RD 210.36', N 139' TO MUNSON LK, ELY 194' AL LK, SLY
70.75' TO POB REF 19.0120.001 IN 2012; Lake View Township **APPLICATION AND
DESCRIPTION OF PROJECT:**

- 1) Request a variance to construct a dwelling to be located at fifty (50) feet from the ordinary high-water mark (OHW).
- 2) Request a variance to construct a bunk house with a sidewalk, with the sidewalk being located at fifty (50) feet from the OHW.
- 3) Request a variance to construct a detached garage to be located at fifty-three (53) feet from the OHW, deviating from the required setback of one hundred (100) feet on a Recreational Development Lake all due to setback issues.

47 Anthony and Melinda Johnson presented the application and explained the history of the cabin. The existing
48 cabin is only 20' from the lake and they would like to build a new house. They have a good amount of
49 shoreline, but not much depth to the property.

50

51 Boatman asked if they were removing the existing cabin out of the shore impact zone. Johnson said yes.

52 Boatman asked what their intent is with the existing bunkhouse on the property.

53 Johnson said that will eventually be knocked down and replaced with a detached garage and another
54 bunkhouse constructed on the other side of the garage and would be further from the road than the existing.

55

56 Boatman commented on the short depth of the lot and said he thinks the plan makes sense as much as it
57 possibly can.

58

59 Testimony Closed.

60

61 Hall thinks it will improve the characteristic of the locality and thinks its an improvement and reasonable.

62

63 Sharp commented on homes that are closer to the lake than what is being proposed.

64 Knopf agreed with Sharp.

65

66 Boatman thinks its an appropriate plan and will be an improvement to the lot getting out of the shore impact
67 zone.

68

69 **Motion:** Sharp made a motion to **approve** the variance as submitted based on the findings that it puts the
70 property to use in a reasonable manner that is consistent with the comprehensive plan and intent of the
71 ordinance, it does not alter the character of the locality as neighboring structures are as close or closer to
72 the lake and the amount of impervious coverage will remain relatively low, as well as removing the structure
73 close to the lake will be a benefit as well.

74

75 **Hall second.** All in favor. **Motion carried.** Variance **approved.**

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77

78 **SECOND ORDER OF BUSINESS: APPLICANT: Charles A Stowman & Amber G**
79 **Stowman** 4234 58th St S Fargo, ND 58104 **Project Location:** 11276 S Lake Eunice Rd Detroit
80 Lakes, MN 56501 **Tax ID Number:** 17.1077.000 **LEGAL LAND DESCRIPTION:** Section
81 26 Township 138 Range 042; SANDY BEACH PARK 1ST LOT 9 & NE1/2 OF LOT 8; Lake
82 Eunice Township **APPLICATION AND DESCRIPTION OF PROJECT:**

83

84 1) Request a variance to replace a deck to be located at forty-one (41) feet from the
85 ordinary high-water mark (OHW), deviating from the required setback of seventy-five
86 (75) feet on a General Development Lake due to setback issues.

87

88

89 Charles and Amber Stowman presented the application and explained that the existing deck is rotten and
90 unsafe but would like to make it bigger to allow for seating and easier access to home.

91

92 Boatman asked if the Board had any concerns.

93

94 Hall said he doesn't think it will interfere with the neighbors as there are other structures that are closer.

95

96 Testimony Closed.

97

98 Sharp agrees with Hall and says the deck isn't useable in its current state.

99

100 Knopf said he thinks it's reasonable.

101

102 **Motion:** Knopf made a motion to **approve** the variance as submitted based on the findings it puts the
103 property to use in a reasonable manner and won't alter the essential character of the locality.

104

105 **Hall Second.** All in favor. **Motion carried.** Variance **approved.**

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107

108 **THIRD ORDER OF BUSINESS: APPLICANT: Stephen C Evans & Anna K Milner**
109 72935 Carriage Trl Palm Desert, CA 92260 **Project Location:** 19878 Co Rd 131 Detroit Lakes,
110 MN 56501 **Tax ID number:** 08.0951.000 **LEGAL LAND DESCRIPTION:** Section 15
111 Township 139 Range 041; FLOYD LAKE BEACH LOTS 52 & 53; Detroit Township
112 **APPLICATION AND DESCRIPTION OF PROJECT:**

113

114 1) Request a variance to construct a deck to be located thirty (30) feet from the ordinary
115 high-water mark (OHW), deviating from the required setback of seventy-five (75) feet
116 on a General Development Lake due to setback issues.

117 2) Request a variance to be at twenty-seven (27) percent lot coverage, deviating from the
118 allowable coverage of twenty-five (25) percent on an agricultural zoned lot in the
119 shoreland due to lot size.

120

121

122 Brian Cooksey with Lakes Area Landscaping and Steven Evens presented the application.

123 Cooksey said they are wanting to add onto the deck and create a walkway to the dock to make to make
124 things safer for Mr. Evans. These are to be constructed according to ADA (Americans with Disabilities
125 Act) Guidelines as well as an ADA ramp onto the deck. Cooksey stated that the deck boards will be
126 changed out to have ¼" spacing.

127

128 Boatman asked what the shore impact zone is on that lake.

129 Vareberg said thirty-seven and a half (37.5) feet.

130

131 Boatman asked Cooksey if he was aware that what he is requesting is in the shore impact zone. Cooksey
132 said yes.

133

134 Vareberg asked Cooksey what the total square footage is that he would be adding.

135 Cooksey said thirty (30) to maybe (50) feet. He said he just needs to make it safe because of Mr. Evans
136 medical condition. He explained that he's just adding a walkway to the dock and making the deck safe in
137 accordance with ADA guidelines.

138
139 Evans stated that the door that opens onto the deck comes out to about five (5) feet from the edge of the
140 deck and there is currently no railing. He stated that if he had one trip and fall that he would be off the
141 deck, and it needs to be made safer.

142
143 Boatman asked if the footprint would change significantly. Cooksey said no.

144
145 Evans shared a piece from the Americans with disabilities act that states: A locality is required to
146 reasonably accommodate disabled persons by modifying its zoning policies, practices, and procedures.

147
148 Boatman asked if that was his practical difficulty.

149
150 Evans said yes, he needs a walker 100% of the time and it's impossible for him to get to the lake. This is
151 about safety and access for him.

152
153 Vareberg shared a letter from the Pelican River Watershed District that stated if the plan is approved, they
154 would need a Stormwater Management Plan, and if the plan is not approved, an option would be to
155 narrow down their driveway to decrease the impervious surface to allow for the four (4) foot access path
156 to the lake.

157
158 Testimony Closed.

159
160 Hall commented that they are only increasing the impervious a little, it's common sense, there's structures
161 closer to the lake, they are making it safer, and he is for it.

162
163 Knopf stated that he sees the practical difficulty of him needing to get to the dock and using his property.

164
165 **Motion:** Hall made a motion to approve the variance as submitted based on the findings that the given
166 situation with the disability falls within the intent of the ordinance, it's giving the landowner a safe way to
167 access his property, it's a very minimal increase to impervious surface coverage, it won't alter the
168 character of the locality of the community, and it meets the intend of the Americans with Disabilities Act.

169
170 **King** Second. All in Favor. **Motion carried.** Variance **approved.**

171
172
173 **FOURTH ORDER OF BUSINESS: APPLICANT: Nathan Novacek ET AL 3539 44th**
174 **Ave S Fargo, ND 58104 Project Location: 33263 N Cotton Lake Rd Rochert, MN 56578 Tax**
175 **ID Number: 16.0290.000 LEGAL LAND DESCRIPTION: Section 35 Township 140 Range**
176 **040; AUDREY BEACH 140 40 LOT 8 & E 25' OF LOT 9; Tax ID Number: 16.0289.000**
177 **LEGAL LAND DESCRIPTION: Section 35 Township 140 Range 040; AUDREY BEACH**

178 140 40 LOT 7; Holmesville Township **APPLICATION AND DESCRIPTION OF**
179 **PROJECT:**
180

- 181 1) Request a variance to construct a fifty (50) foot by thirty (30) foot garage to be located
- 182 forty-five (45) feet from the ordinary high-water mark (OHW).
- 183 2) Request a variance to construct a ten (10) foot by thirty (30) foot deck to be located
- 184 thirty-five (35) feet from the OHW.
- 185 3) Request a variance to construct a sixteen (16) foot by sixteen (16) foot deck to be
- 186 located forty-two (42) feet from the OHW.
- 187

188 All deviating from the required setback of one hundred (100) feet on a Recreational
189 Development Lake due to lot size, setback issues, and location of a new septic system.
190
191
192

193 Nathan Novacek presented the application. He stated the original house has no steps to get into it, so they
194 need to put a deck on it. He said the deck for that is as far back as he can get it based on the location of
195 the house.
196

197 Hall asked if he was going to remove the shed that's in the shore impact zone. Novacek said yes.
198

199 Novacek mentioned the proposed detached garage for the far side of the lot at 45'. He explained the
200 location requested is based on him working with a septic designer to determine best location for a new
201 system, and the location of the system would be finalized based on whether or not a variance was granted.
202

203 Boatman asked if there would be sleeping quarters or a kitchen in the garage. Novacek said only a
204 bathroom.
205

206 Boatman asked if the deck that's being proposed at thirty-five (35) feet could be moved back to fifty (50)
207 feet. He feels it needs to be moved back.
208

209 Hall agreed that it needs to be moved back. He asked if the deck could go on the side between the garage
210 and the house.
211

212 Boatman asked what the setback would be. Vareberg said forty-five (45) feet.

213 Boatman asked Novacek if that would work for him.

214 Novacek said they would be okay with the deck on the side.
215

216 Sharp asked if the size of the deck would remain the same. Novacek said yes.
217

218 Novacek explained that the building and deck would be an easier access location for his aging relatives to
219 use and enjoy the lake.
220

221 Testimony Closed.
222

223 Hall said he thinks it's a good give and take.

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Motion: Sharp made a motion to approve the variance request with the following changes that the ten (10) by thirty (30) deck setback be changed from thirty-five (35) feet to forty-five (45) feet and that the location of it be on the east side of the garage as well as the condition that the larger of the two sheds be removed based on the findings that the request would put the property to reasonable use in a manner that's consistent with the comprehensive plan and the intent of the ordinance, and the requests do not alter the character of the locality as other structures in the vicinity of this property have a similar setback.

King Second. All in favor. **Motion carried.** Variance **approved.**

FIFTH ORDER OF BUSINESS: APPLICANT: Paul S Hasson 12603 S Abbey Lake Ln Detroit Lakes, MN 56501 **Project Location:** 12603 S Abbey Lake Ln Detroit Lakes, MN 56501 **Tax ID number:** 19.0718.000 **LEGAL LAND DESCRIPTION:** Section 23 Township 138 Range 041; ABBEY LAKE ESTATES Lot 056 Block 001 LOTS 54-57. PT VAC RD NW OF LN: COMM ELY COR LOT 54, NW 39.89' TO POB; NE 66' AND TERM (PARCEL A, .25AC). **APPLICATION AND DESCRIPTION OF PROJECT:**

- 1) Request a variance to construct a deck to be located seventy (70) feet from the ordinary high-water mark (OHW).
- 2) Request a variance to construct an addition to a non-conforming structure to be located at one-hundred and twenty-five (125) feet from the OHW.

All deviating from the required setback of one-hundred and fifty (150) feet on a Natural Environment Lake due to setback issues.

Paul Hasson presented the application. He explained that the house was built in the 40's, and he has been working with the Pelican River Watershed to figure out plans that would be the best option.

Boatman commented that some of the proposal falls into the shore impact zone due to the lake being a Natural Environment Lake.

Hasson said he is working with Gina at the Pelican River Watershed on a water retention berm, basin, and French drains.

Sharp asked about the deck on the NE side, that's forty-six feet from the OHW and can it be shifted at all to still get the same use but be further back from the OHW.

Hasson said the design now is meant to be accessible and aesthetically pleasing.

Boatman said he thinks he needs to shrink the deck down.

Hall said he thinks there needs to be some adjustment.

Hasson said he'd be willing to bring it back to fourteen (14) feet on the back side and twelve (12) feet on the front.

269 Hall commented that at least the deck is pervious, and that he understands twelve (12) feet isn't much
270 room.

271
272 Boatman asked if it needed to be an L-Shape.

273 Hasson said he'd like it to be to keep it aesthetically pleasing.

274
275 Phil Hansen with Lake View Township commented on the cul-de-sac and stated it wasn't made how it
276 was supposed to and is asking this application to be put off for a month, so they can figure all of this out
277 at the same time.

278
279 Hasson said he is working with the township but would like to keep the ball rolling on this proposal.

280
281 Boatman commented that it is two separate issues.

282
283 Knopf asked if the water retention berm would be constructed with the project.

284 Hasson said yes.

285
286 Boatman reiterated being in the shore impact zone and to move forward there needs to be some resolution
287 to address the shore impact zone issue by either by subtracting from the blueprint or modifying it.

288
289 Hall commented that it is hard because the house is already there.

290
291 Sharp said he's fine with the second request, but the deck could be different.

292 Hall said he thinks the second request makes sense.

293
294 Vareberg read into record a letter from neighbor Carrie Wirth:

295

296 To whom it may concern
297
298 My name is Carrie Wirth. I am a neighbor of Paul Hasson's and built my home in 2017. Having been
299 through the Becker County Variance process, I wanted to share my support for Mr. Hasson's project.
300
301 Mr. Hasson takes pride in his property. He works long hours on the road, returns home on the weekends
302 and works even harder to keep his property clean and respectable.

303
304 I have reviewed his project application and fully support his improvements. Current building setbacks
305 and regulations for Abbey Lake do not coincide with the setback and regulations when Abbey Lake
306 Estates was developed.

307
308 Please consider this letter during Mr. Hasson's variance hearing.

309
310 Thank you
311 Carrie Wirth
312 12615 S Abbey Lake Ln, Detroit Lakes, MN 56501

313 Testimony closed.

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Sharp asked if the applicant could table one of the requests and motion on the other.

Vareberg said yes.

Hasson said he would like to do that. Hasson tabled the deck portion of the application.

Hall wanted to clarify that the small, elevated deck would be included in the motion and not a part of the tabled application. That was understood by everyone.

Motion: Hall made a motion to approve the second request for an addition with roofline change as well as the small, suspended deck on the South side of the house due to the fact that it will improve the image in the area, be more aesthetically pleasing, and does not alter the character of the locality or the impervious surface coverage. Noting that the first request for an L-shaped deck will be tabled for thirty (30) days until the owner can review the design and come back as well as to allow time for him to meet with the township to address the snow removal turn around. Owner must install gutters on both sides of the house and French drains by the proposed plan.

King Second. All in favor. **Motion carried.** Variance **approved.**

SIXTH ORDER OF BUSINESS: APPLICANT: Victoria S Williams 23027 Roosevelt Beach Ln Detroit Lakes, MN 56501 **Project Location:** 23027 Roosevelt Beach Ln Detroit Lakes, MN 56501 **Tax ID number:** 19.0582.000 **LEGAL LAND DESCRIPTION:** Section 30 Township 138 Range 041; LOT 3 LESS .60 AC IN SE COR. **Tax ID number:** 19.0600.000 **LEGAL LAND DESCRIPTION:** Section 31 Township 138 Range 041; LOT 1. **APPLICATION AND DESCRIPTION OF PROJECT: 1.)** Request a variance to create twelve (12) riparian lots and one (1) non-riparian lot with some of the pre-existing taxed dwellings being non-conforming in lot area and/or width.

Sam Rufer on behalf of Mark Sugden with Pemberton Law, Scott Walz with Meadowland Surveying, and Victoria Williams, owner presented the application. Rufer gave an overview of the property. He stated that the people have had leases on this property for 38 years. Some of the lease holders have built large residences and they want to own it. He emphasized that this request changes nothing other than to officially put property lines down where they have essentially been for years.

Williams stated that that the most recent structures were built in 1985 and 1992. Other structures on the property were built in 1922, 1894, 1942, 1936, and 1913 predating the implementation of Becker County Zoning and its ordinance.

Rufer stated that it is less dense than surrounding areas and that Williams didn't create this problem, she's just trying to fix it. He also commented that this provides zero economic benefit to Williams for coming before the board and doing this, she just doesn't want to be a landlord anymore.

356 In regard to them being taxed separately, Walz did clarify that Williams receives one tax statement, but
357 each of the lots are broken down with their separate tax amount which Williams then splits up for each of
358 the leaseholders. Walz mentioned that a letter received from the Pelican River Watershed was full of a lot
359 of misinformation. He commented that Williams is the 5th Generation landowner with 10 out of 11 of the
360 cabins having been built before 1950. Walz stated that this request is in harmony with the intent of the
361 ordinance and consistent with the comprehensive plan. He said these lots were created at the same time the
362 rest of the lake was it just wasn't subdivided, but it is consistent with the rest of the lake. The property as it
363 sits now has a little over 1300 feet of lakeshore and about 178,000 square feet of area. According to current
364 lakeshore standards, you could have 13 lots by lakeshore standards and 9 lots by area. He stated that the
365 line could be moved across the driveway to pick up area. Walz said all of these cabin owners want to own
366 their cabins so they can move forward with handling it. How these lots are being requested is how they
367 have always been using them.

368
369 Williams commented that the tenants own the buildings and improvements to the land; they are in fact the
370 owners, so when someone goes to sell, they privately, with another party will sell their home and the lot it
371 is on, and then Williams will sign off on the lease with the new owner, but Williams has no say over what
372 they do because she doesn't own the homes.

373
374 Sam stated that the DNR proposed setting this up as a conservation subdivision development, and the
375 problem with that is, before it can be approved, you would have to remove all non-conforming buildings
376 which would require leveling most of the buildings.

377
378 Hall commented that this is a clean-up situation and there's no reason to prolong it. The only thing he thinks
379 could be done different is the road.

380
381 Boatman asked if the intent was to keep it a private road. Williams said yes.

382
383 Phil Hansen with Lake View Township shared his concerns for the safety of the road for emergency vehicles
384 and would like to see the road cleaned up.

385
386 Walz said it's a private road. It has been the same since 1922 and they have managed.

387
388 Hall asked how a school bus, fire truck, or an ambulance would get down there, and asked what happens
389 when a new owner moves in and demands the township take it over.

390
391 Vareberg said anyone has the right to go to the township and demand it. He said it's an existing road.

392
393 Boatman thinks there's an opportunity to fix up the road at least a little bit.

394
395 Vareberg asked how.

396
397 Hall said anytime someone comes and says this is what we want, the township says the road has to meet
398 their standards before they will take it over. The township has the right to deny taking it over, but then
399 there's an issue of public safety. Hall thinks if there's a time to do it, it would be now.

400
401 Vareberg said to get that road to public standards would be expensive, and this isn't the only set of
402 residences being served by a substandard driveway.
403
404 Boatman asked if there would be room to clean up the road a little bit after the pins are moved to the hillside.
405 He asked how far the property pins are from the hill.
406
407 Walz said the pins are on the lakeside of the road.
408
409 Vareberg suggested that the property lines being extended to the other side of the road in order to make
410 these lots conforming in area. He said if you subdivide that road with a public road, you can no longer do
411 that, so this road would need to remain private in order for that to happen.
412
413 Walz said this is the time to address it but doesn't know how without cutting into the hill.
414 Vareberg said it is preferred to not disturb slopes.
415
416 Hall think it could remain private but be made a little bit wider for turning around. He asked how a school
417 bus or firetruck could turn around.
418
419 Walz said school buses don't go down private road, and asked if there was a width, they were hoping to see
420 it be.
421
422 Hall said ideally the width of a road, but at least wide enough the two vehicles could safely meet.
423
424 Boatman confirmed that Vareberg was suggesting the pins be moved back to the hill to create 20000 sq.
425 foot lots.
426
427 Vareberg said yes and noted it would also create an alternative location for a septic system.
428
429 Williams said she has been encouraging the tenants to come together for possibly a communal septic
430 system. She stated some tenants have requested building garages into the hill and she has told them no as
431 she would like to keep the hill natural and that would be her only concern in including that additional square
432 footage.
433
434 Josephson doesn't see this as a fix. He asked why this couldn't be a PUD or a CIC.
435
436 Vareberg said we don't have the same density as the city. He said the point of a CIC is cluster homes and
437 a lot of green space. The City's ordinance and other ordinances would give you more density to do that.
438 Our ordinance does not do that. It allows you to cluster and put them close together, but it does not allow
439 you to increase your density. He also noted that PUD cannot transfer ownership; it has to be leased or rented
440 just as it is right now, so a PUD would change nothing.
441
442 Vareberg also stated that he spoke with County Attorney Brian McDonald and the Assistant County
443 Attorney Lisa Tufts, and both support this application.

444
445 Knopf asked if the road could connect with South Melissa instead of being a dead end.
446 Williams said it could if it went up the hill, but then would come out right at the bottom of the hill.
447 Josephson asked if they could put a condition to require the road to remain private and that it could never
448 be petitioned to be taken over by the township.
449 Rufer said you can't do that, but noted that just because someone petitions a township that the township
450 can say no. They aren't required to take it over just because someone petitions for it.
451
452 Sharp shared concerns that the lot lines be drawn as conforming as possible to avoid creating a situation
453 where they only way an owner can do a new project is by requesting a variance.
454
455 Boatman asked Vareberg to speak more on moving the lot lines to the other side of the road to make them
456 all conforming in area.
457 Walz noted that it is not possible for Lot 1 but is possible for the rest of the lots.
458 Vareberg asked how we decide what is most conforming.
459 Walz said there is no way to get all of them with conforming shoreline.
460
461 Williams said she would like to keep the hill natural and not start fencing everything off, and that she would
462 like to make the lots as standard as possible.
463 Walz commented that the owners have threatened Williams with a lawsuit if she doesn't make this happen.
464
465 Walz asked if this is approved could he work with Kyle on making sure the plan is drawn up as conforming
466 as possible or if they need to come back to the board.
467 Vareberg said this is Lake View Townships subdivision control. They have given Becker County the
468 authority to approve a certificate of survey that meets their ordinance. This is exceeding that number of lots
469 allowable, but to plat this property or send it through a platting process doesn't make sense since there isn't
470 going to be a public road there.
471 Vareberg asked Hansen if they want the ultimate authority to approve the subdivision or if it remains a
472 private road and they go to lots conforming in area, how would Lake View like it to be handled?
473
474 Hansen said yes, they would like to have the final say in the process.
475
476 Vareberg suggested that the Board act on the variance and then the subdivision will go to the Planning
477 Commission for recommendation and then to Lake View Township for Final approval.
478
479 King asked that it is stipulated the lots be conforming in area with the exception of lot 1.
480
481
482 At this time Vareberg read into record letters received from the DNR and Pelican River Watershed.
483
484
485



June 8, 2022

Kyle Vareberg
Planning & Zoning Supervisor
915 Lake Ave
Detroit Lakes, MN 56501

**Re: Victoria Williams Variance Request to Create 12 Substandard Riparian Lots on Parcels #
19.0582.000 & 19.0600.000**

Dear Mr. Vareberg:

This letter is to comment on the application for a Variance to create twelve substandard riparian lots on the property identified above. The DNR recommends denial of this application because it is contrary to state law for the following reasons:

- State shoreland rules do not allow for the creation of nonconforming lots through platting. Specifically, Minn. R. 6120.3500, subp. 3 prohibits the creation of nonconforming lots that will need variances under the shoreland rules in order to pursue development.
- The protections for existing nonconforming lots of record in Minn. Stat. 394.36 subd. 5 do not apply in this situation because the subject parcel is one conforming parcel or lot of record - it has not been subdivided into individual lots. The tax statement simply lists each structure for determining overall parcel value.

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

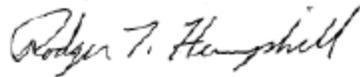
- Is the variance in harmony with the purposes and intent of the ordinance?
- Is the variance consistent with the comprehensive plan?
- Are there unique circumstances to the property not created by the landowner?
- Will the variance, if granted, alter the essential character of the locality?
- Does the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

The last three criteria are known as practical difficulties. Economic considerations alone cannot create practical difficulties. Based on the application materials, it is clear that economic considerations are driving this variance request. If the county approves this variance to create new nonconforming lots, we would look to see how the decision was justified and that it wasn't arbitrary and capricious. Variances should be rare and for reasons of exceptional circumstance.

The DNR recommends that the applicant pursue her goals through the conversion option available through Section 7N (Conservation Subdivision Development) of the County's ordinance. These

provisions are similar to those in state rules and were designed to address this type of historical development pattern and to allow its continuation. The variance should be denied.

Sincerely,



Rodger Hemphill
Area Hydrologist
14583 Cty. Hwy. 19
Detroit Lakes, MN 56501

Phone: (218) 849-8464
Rodger.Hemphill@state.mn.us

487
488
489
490 From: Tera Guetter <tera.guetter@arvig.net>

Please enter into the official record...

Becker County Board of Adjustment
Detroit Lakes, Minnesota

Background

The property 11.15 acre parcel, including 9 cabins, was acquired by John Williams in 1967. PIN 19.0582.000

1. From the February 15, 1983 minutes. At the Becker County conditional use hearing on February 15, 1983, Mr. John Williams proposed to subdivide the land into 14 lots (9 existing cabins, 5 vacant lots), retain the cabin and land ownership, and lease the cabins, "He does not wish to sell it..... This way he felt the tenants could make costly permanent repairs, be taxed accordingly, and use the property for tax purposes." The Planning Commission declined to take action because the application did "not meet minimum (lot size) standards by the State of Minnesota and Becker CountyMr. Williams intends to talk to the County Assessor and try to work on taxing each individual tenant according to his or her structure and improvements, leaving the property in Mr. Williams' name." It is very clear in the record, Mr. Williams did not want to give up ownership of the structures or the land. A "cluster" development was also suggested to Mr. Williams. The Planning commission informed Williams additional acreage was needed for a subdivision plat, a dedicated public road was required, and up to date sewer systems.
2. In 1984, 11 riparian lake lots were "leased" to third parties under the terms they repair/maintain the structure and pay a portion of the parcel real estate taxes. The structures and land remained in Mr. Williams Ownership.
 1. The property was transferred to Helen Williams in 1991.
 2. In February 2014, a variance application to separate the cabins and immediate surrounding land into 12 individual non-conforming lots was signed by Helen Williams on February 24, 2014, however, there is no signature of application acceptance by the previous Zoning Administrator.
3. M.S. 394.36, Subdivision 5 which applies to shoreland Lots of record on the date of this adoption of local shoreland controls. – This section is not applicable to this application. The tract is 11.15 acres. There are no contiguous non-conforming lots of record with structures on them because the tract was NEVER subdivided. There is no re-

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alignment or re-description of existing contiguous non-conforming lots of record. Other non-conforming lots have been re-aligned but they were Lots of record, not a single tract. The application is to CREATE 12 non – conforming lots of record from a single 11.15 acre tract. Under what statute is Becker County authorized to create and subdivide riparian non-conforming lots of record from a single tract of land under the current local shoreland controls?

PRWD recommends DENIAL of the Williams request to create 12 riparian non-conforming lots of record. The owner can create a planned unit development or subdivide the single tract into conforming lots. The tenants are not the owners. They repair/maintain the structure and pay a portion of the real estate taxes as part of their rent/lease payment. This is the “deal” they signed on to.

1. There are no Mn Statutes which allow the new creation of non-conforming lots of record.
2. Mr. Williams did not want to give up ownership in 1983 and leased the structures out accordingly up to the present time. It was very clear in the records Mr. Williams wanted to maintain ownership of the property and buildings and have the tenants pay pro-rata for taxes and building improvements as part of their rent/lease payments and is reflected as such in the lease terms.
3. The lot can be split into approximately 9 conforming riparian lots of record or converted to a planned unit development with the existing structures.
 - a. “Improvements” to leased or rented structures by the tenants do not grant the right to future ownership.
 - b. Becker County Tax statement is to Victoria S. Williams for PIN: 19.0582.000 – one parcel. There are no other names listed on the statement.
4. Sales of resorts have been converted to planned unit developments (Madsen Grove on Little Floyd Lake). The buildings could remain in place and the tenants could purchase the buildings and land.

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Boatman asked Vareberg if he felt comfortable with the legalities of this.

Vareberg stated that he reached out to the County Attorney’s for their legal opinion because he doesn’t want to put the county in a predicament and offered to call County Attorney Brian McDonald from the meeting to get his verbal comments if necessary.

Boatman said he wasn’t comfortable proceeding without knowing more legally about what they are doing.

Hall stated he was comfortable with it.

Testimony Closed.

Hall said it’s been kicked around long enough, and this basically already exists. This was developed when the rest of the lake was developed. He does feel that Vareberg’s recommendation of making the area more conforming makes sense, he feels the road needs to stay private, and it’s time to move forward.

Sharp asked if he wanted the road to be a condition.

Hall said not necessarily.

Motion: Sharp made a motion to **approve** the variance with the condition that all lots except Lot one (1) conform in area and that an easement be created for the private road based on the findings that it puts the property to use in a reasonable manner that’s consistent with the comprehensive plan and purposes of the Zoning ordinance; there are unique circumstances associated with this property as several of the homes

517 were constructed prior to the creation of the Becker County Zoning ordinance and these unique
518 circumstances were not created by the current owner; The request does not alter the character and locality
519 of the property as the property has already been developed; furthermore the splitting of the property into
520 individual lots will not alter the current use of the property.

521 Sharp also adopted into the motion the statements by Mark Sugden in the application:
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523 **1. It is in harmony with purposes and intent of the ordinance:**

524 The longstanding use of the Property is no different from any other single-family residential
525 or seasonal recreational development on Lake Melissa or any other General Development lake
526 in Becker County. Individuals have built single-family dwellings or seasonal recreational
527 cabins such as these along essentially the entire lake shore of Lake Melissa, and here, Williams
528 and the Tenants wish to own said lake shore, the improvements thereon, and the yards that
529 they have long maintained. Thus, while the minimum frontage requirements may not fully
530 comply with the current zoning and shoreland development requirements, Williams and the
531 Tenants have established practical boundary lines between their "parcels", and their historical
532 use of the Property is consistent with uses permitted by the ordinance on General
533 Development lakes (i.e., lakes with high levels and mixes of existing development that are
534 heavily developed around the shore) in Becker County.
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536 **2. It is consistent with the Becker County Comprehensive Plan:**

537 The comprehensive plan anticipates and acknowledges that General Development lakes will
538 be developed for single-family residential or seasonal recreational purposes. This is exactly
539 the type of development that has occurred on the Property, and such development and
540 subsequent use of the Property has been ongoing for at least 40 years and will continue to be
541 used in said manner for the foreseeable future. Williams has no plans or desires to expand
542 the current use of the Property, change the zoning, or otherwise engage in new development;
543 rather, Williams simply desires to formalize the use that has been in place for decades.
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545 **3. It puts the property to use in a reasonable manner.**

546 The manner in which the Property has been used is consistent with the use of nearby
547 properties. As indicated above, upon review of the Becker County GIS map server, one could
548 count no less than twenty (20) nonconforming lake lots within a half mile to the East and
549 West of the Property, and it is worth noting that said neighboring lake lots consist of
550 significantly less lake frontage than any of the proposed lots of the Property.
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552 **4. There are unique circumstances to the property:**

553 The Property does not consist of vacant, undeveloped lakeshore that Williams hopes to
554 subdivide, sell, and develop. Instead, the Property was developed while William's predecessor
555 in title owned the Property, with the County's approval (over 40 permits have been issued by
556 the County in regard to the various structures and improvements on and to the Property). As
557 a result, Williams inherited a mess, and Williams and the Tenants now desire to resolve the
558 issue - not exacerbate it - and by doing so, they will remedy what is certainly a perpetual
559 administrative inconvenience at the County level.
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561 **5. It maintains the essential character of the locality.**

562 Formally subdividing the Property based on the historical use thereof will not alter the
563 essential character of the locality, nor will it have any material adverse impact on the persons
564 or properties in the area. Again, the Property has been used in the current manner for
565 decades, and such use is wholly consistent with the significant lakeshore development of Lake
566 Melissa. Additionally, the current use, and therefore the impact on the health or safety of
567 persons residing or working in the area adjacent to the Property, will not change. No further
568 lakeshore development is proposed in conjunction with the proposed subdivision as each lake
569 lot has already been developed. Furthermore, numerous lots within a half mile to the East or
570 to the West of the Property, and surrounding the lake, do not meet the current frontage and
571 lot area requirements set forth in the ordinance.

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573 It was noted that the criteria in Chapter 8; Section 12, Letter I, had been met or was not applicable.

574 **Craig Second.**

575 Josephson stated he doesn't support the motion. He feels there are too many uncertainties and feels like
576 there hasn't been enough input.

577 Hall, Sharp, King, Knopf in favor; Josephson and Boatman opposed. **Motion carried. Variance approved.**

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582 **SEVENTH ORDER OF BUSINESS: APPLICANT: Rhonda Vareberg** 19529 330th Ave Detroit

583 Lakes, MN 56501 **Project Location:** 33130 SE Perch Lake Rd Detroit Lakes, MN 56501 **Tax ID**

584 **number:** 10.0674.001 **LEGAL LAND DESCRIPTION:** Section 23 Township 139 Range 040; Golden

585 Fawn Estates Lot 6. **APPLICATION AND DESCRIPTION OF PROJECT:**

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587 Request a variance to construct a dwelling, attached garage, and a deck/patio to be located 130' from the
588 ordinary high-water mark and 15' from the top of a bluff on a natural environment lake due to
589 topographical issues.

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592 Joe Stenger presented the application. He stated the Rhonda Vareberg hired him to excavate for the building
593 site. He commented that there's an area already cleared, but to get the house back from the bluff he's having
594 to dig into a hill and remove some nice trees but would prefer not to do that.

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596 Boatman asked if they could turn the house.

597 Stenger said the pad would be off.

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599 Hall asked if it was a really a bluff. He though it was gentle enough to drive up and down.

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601 Stenger thinks he would destroy more if he moved into the hill.

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603 Sharp said he thinks it's reasonable.

604 Hall sees no issue.

605 King agreed.

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607 Kyle Vareberg mentioned two areas out there that might not even be bluffs, but at least one corner of the
608 proposed structure will be up to the bluff. He said the request will need to be amended to say up to the bluff
609 (zero-foot setback) and one-hundred and twenty-six feet from the lake.

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611 Hall said he thinks it's reasonable.

612 King agrees.

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614 **Motion:** Hall made a motion to approve the request to be one-hundred and twenty six (126) feet from the
615 lake and zero (0) feet from the bluff understanding that there is a at least a fifteen (15) foot setback from
616 what the board considers to be the true bluff and based on the findings that it falls within the intent of the
617 ordinance, it will not change the character of the locality, and it puts the property to good use.

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619 **King** Second. All in favor. **Motion carried.** Variance **approved.**

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622 **EIGHTH ORDER OF BUSINESS: Informational Meeting.** The next informational meeting is
623 scheduled for August 4th at 8:00 a.m. in the 3rd Floor Zoning Meeting Room of the Original Courthouse.

624 As there was no further business to come before the Board, **King** made a motion to adjourn the meeting.

625 **Sharp** second. All in favor. Motion carried. Meeting adjourned at 8:12 pm.

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_____ ATTEST _____

630 Chairman Roger Boatman

Kyle Vareberg,
Planning and Zoning Administrator

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