

Becker County Board of Adjustments
April 14, 2004

Present: **Members:** Jerome Flottemesch, Tom Oakes, Harry Johnston, James Elletson, John Tompt and Terry Kalil.
Zoning Staff: Patricia Johnson, Administrator and Debi Moltzan.

Vice Chairman Johnston called the meeting to order at 7:00 p.m. Debi Moltzan recorded the Minutes

Discussion was held regarding the Minutes from the March 10, 2004 Regular and Appeal Meetings. Flottemesch made corrections to the third paragraph of the last page. Flottemesch then made a motion to approve the corrected Minutes. Oakes second. All in favor. Motion carried. Minutes approved as corrected. Flottemesch then made corrections to the Motion of the Appeal Minutes for clarification. Elletson made changes to the first, second, and third paragraphs of the third page. Oakes then made a motion to approve the corrected Minutes. Elletson second. All in favor. Motion carried.

Vice-Chairman Johnston explained the protocol for the evening and explained that he would be the alternate member for the evening and would be abstaining from the vote.

FIRST ORDER OF BUSINESS: Michael Watson. Request to amend Document 418398 to allow a dwelling on a substandard size lot. Along with amending Site Permit 16707 deviating from the required setbacks. This is an after the fact application under current violations as listed: 1) violation of building a dwelling above a garage on a substandard size lot; 2) violation of building 33 feet from the rear property line; and 3) violation of building 63 feet from the centerline of a township road for property described as: Pt Lots 8 & 9; South Dakota Beach Revised; Section 5, TWP 142, Range 40; Maple Grove Township. PID Number 20.0584.001.

Watson explained the application to the Board. Watson stated that he needs a variance because there is an error in the setbacks. There is a story above the garage but there is no bathroom, plumbing or sewer.

Oakes questioned where the property lines were. Watson stated that the original survey markers are there and steel fence posts were placed next to the markers. Johnston questioned if the front stakes was the line separating the road right of way and his property. Watson stated that was correct. Elletson stated that there was a letter in the file stating what was not in the garage and asked what was in the upper story of the garage. Watson stated that there is a table, bed, microwave, storage, chairs, heat, TV and varnished floors. Flottemesch stated that if the front two steel fence post are the corner lines, then a portion of the garage in the road right of way.

Discussion was held on what the road right of way entailed and the difference between the driving surface of the road and the road right of way. Johnston stated that if you are

standing at the SE corner stake, you cannot see the SW corner stake because the garage is in the way.

Kalil asked why the permit was obtained for 80 feet from the centerline of the road and then built 63 feet from the centerline. Kalil also stated that there was a discrepancy about the size of the structure, both in dimensions and height. Watson stated that when the garage was constructed, they lined it up with the neighboring garages. Then he and his contractor discussed the design of the garage and changed the roofline. Watson stated that he did not realize there was a height restriction. Watson stated that he understands why there are density regulations on the lake, but this structure is only used seasonally and does not have water or sewer.

Johnston stated that there was a variance granted in 1995. The variance states that this substandard lot must be attached to the lake front parcel as one parcel; and that there cannot be a dwelling on the back lot. Johnston stated that accessory structures cannot have living or sleeping facilities in them. Kalil questioned why they did not add onto the cabin. Watson stated that he was denied a permit to add onto the cabin to go closer to the lake. Kalil asked if Watson had applied for any other permits to add onto the cabin in any other direction. Watson stated that he had not. Watson stated that he did not see the words “no living or sleeping quarters” on the variance. Johnston stated that those words are in the Ordinance not the variance.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from:

Gerald Rasmussen – in opposition to the application
Terry & Ingrid Olson – in favor of the application
Jim & Becky Eckel – in favor of the application
Erik & Kari Watson – in favor of the application
James & Sheila Salyer – in favor of the application
Michael Zak – in favor of the application
Chris & Martha Hohweiler – in favor of the application
Robin Hadlich – in favor of the application
LaVerne & JoAnn Grimsrud – in favor of the application
Gerald Rasmussen – in opposition of the application

At this time, testimony was closed.

Further discussion was held. Johnston questioned the height of the structure. Johnson stated that the Planning Commission would deal with the height of the structure, if the variance was granted. Kalil questioned how the Board would have looked at this application had the application come in before the structure was built.

Flottemesch stated that it would have been a difficult. Flottemesch further stated that the original variance allowed a substandard lot, smaller than other back lots for the purpose of an adequate septic system and for accessory and storage structures. This structure may

not be completely on the lot, but may be in the road right-of-way. The septic system is located in the road right of way. The entrance of the garage is directly off the road with the doors being on the road right of way. A structure of this size may not have been allowed on this size lot.

Kalil stated that no structure would have been permitted in the road right of way. Structures are kept off the right of way 20 feet. The definition of a structure does not state that there needs to be well or septic. Kalil stated that the Board needs to be consistent in their messages and decisions. This is very similar to an application that was denied in January.

Flottemesch reread the original variance. One of the main reasons for the variance was for an adequate septic system. If the system in the road right of way fails, there needs to be an area for a new one. Elletson questioned why the septic system was placed in the road right of way. Elletson further stated that the survey on this property would be considered a recent survey and if the markers are correct, a corner of the building and the slab are in the road right of way. The Board has no authority to grant a variance in the road right of way. Elletson further stated that a dwelling on this parcel is prohibited by the Variance of 1995.

Motion: Elletson made a motion to deny a variance to amend Document 418398 to allow a dwelling on a substandard size lot and deny the amendment of Site Permit 16707 deviating from the required setbacks, which included: 1) violation of building a dwelling above a garage on a substandard size lot; 2) violation of building 33 feet from the rear property line; and 3) violation of building 63 feet from the centerline of a township road based on the fact that the Variance of 1995 does not allow for a dwelling; a portion of the structure may be located in the road right of way; and all the violations were created by the landowner. Flottemesch second. All in favor. Motion carried. Variance denied.

Kalil stated that the wording of the 1995 Variance is very clear, that the back lot is for an adequate septic system and storage.

P. Johnson asked what time line is to be given for the removal of the structure. The Board held discussion on what would be a reasonable time. Watson stated that he would have to try to sell and move the structure.

Flottemesch made a motion to add the following removal date of November 1, 2004 to the original motion of denial. Elletson second. All in favor. Motion carried. Structure to be removed by November 1, 2004.

SECOND ORDER OF BUSINESS: Robert Alexander. Request a variance to construct an addition 31 feet from the centerline of the county road and 30 feet from the ordinary high water mark of Lake Maud has been file for the property described as Lot 2 Newport Beach; Section 27, TWP 138, Range 42; Lake Eunice Township. PID Number 17.1023.000.

Ken Huesman, contractor, explained the application to the Board. There is currently a 14 ft x 56 ft mobile home with two 10 ft additions. They would like to fill in an area 10 ft x 30 ft between the two additions and put a new roof over the entire structure. The addition would be placed on top of an existing slab. The addition would be lakeside, not roadside.

Johnston stated that the Board had viewed the property and upon review, they found a 10 ft x 30 ft; 8 ft x 46 ft; and 3 ft x 12 ft concrete slabs that were not indicated on the site plan.

No one spoke in favor of the application. No one spoke against the application. There was no written correspondence either for or against the application. At this time, testimony was closed.

Elletson stated that this is a nonconforming structure that is located within the shore impact zone. The required lake setback is 100 feet, the shore impact zone is 50 feet and the structure is located 30 feet from the ordinary high water mark. Kalil stated that she calculated 39 to 40% impervious lot coverage. Kalil further stated that there is reasonable use of the property with the current structure.

Motion: Kalil made a motion to deny a variance to allow a 10 ft x 30 ft addition 30 feet from the ordinary high water mark of the lake and 31 feet from the centerline of the county road based on the fact that this is a nonconforming structure located within the shore impact zone; there is no hardship to justify intensifying a nonconforming structure; the amount of impervious area exceeds the allowable coverage; there is reasonable use of the property and there is no hardship to justify the variance. Oakes second. All in favor. Motion carried. Variance denied.

THIRD ORDER OF BUSINESS: Michael West. Request a variance to construct a dwelling 72 feet from the centerline of the township road and 62 feet from the ordinary high water mark of the lake has been filed for the property described as: Pt of Govt Lot 4; Section 11, TWP 139, Range 40; Erie Township. PID Number 10.0153.000.

No one was present. Flottemesch asked to place this application at the end of the agenda.

FOURTH ORDER OF BUSINESS: Yvonne Kangas. Request a variance to relocate an existing garage 60 feet from the centerline of the county road has been filed for the property described as: Pt Lot 1; Section 9, TWP 139, Range 38; Toad Lake Township. PID Number 33.0110.001.

Kangas explained the application to the Board. She would like to relocate the existing garage parallel to the lot line the make the existing driveway and turn around more accessible and usable.

Flottemesch questioned if a new access would be made to access this structure. Kangas stated that no new access would be constructed, they would be using the current driveway and that the doors of the structure would be facing the road. Elletson questioned what the

garage would be used for. Kangas stated that the structure would be used for storage, not vehicles.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from M. Clark Lee, in favor of the application; and Rene Philippot, in favor of the application. At this time, testimony was closed.

Further discussion was held regarding the location of the septic system, the location of the storage shed, the location of the house, and distance off the road right of way.

Motion: Tompt made a motion to approve a variance to allow the existing storage shed to be relocated sixty (60) feet from the centerline of the County Road based on the fact that it would allow better usage of the property and safer access with the stipulation that no new access be built off the County Road for this storage shed and that the shed be used for storage only, no vehicles. Flottemesch second. All in favor. Motion carried. Variance approved.

FIFTH ORDER OF BUSINESS: Thomas Tollefson. Request a variance to construct a garage 30 feet from the centerline of the township road has been filed for the property described as: Lot 14 and N ½ of Lot 15, Clarks Grove Subdivision; Section 10, TWP 139, Range 41; Detroit Township. PID Number 08.0824.000.

Tollefson explained the application to the Board. The existing structures will be removed and a new cabin and detached garage will be constructed. The new cabin will be moved back from the lake to the established building line. They would like to build the detached garage in line with the other garages along the road, which is about 30 feet from the centerline.

Discussion was held regarding the lot size, road location, property line locations and lot coverage. The Board also questioned the size of the platted lot and the dimensions put on the site plan. Tollefson stated that a new road was constructed in a different location and the original road has been vacated and the landowners are in the process of acquiring the vacated portion of the road. Tollefson's measurements include the vacated portion of the road.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Howard & Verda Stewart, in favor of the application. At this time, testimony was closed.

Further discussion was held regarding lot size, garage size, lot coverage and road vacation.

Motion: Flottemesch made a motion to approve a variance to construct a detached garage twenty (20) feet from the road right of way based on the fact that this is a lot of record with the stipulation that lot coverage cannot exceed 25% impervious coverage (as

per drawing submitted with the application). Elletson second. All in favor. Motion carried. Variance approved.

SIXTH ORDER OF BUSINESS: Otto Kamrud. Request a variance to enclose a deck 25 feet from the road right of way of State Highway 34 has been filed for the property described as Pt SW ¼; Section 20, TWP 140, Range 36; Osage Township. PID Number 21.0209.000.

Kamrud explained the application to the Board. There is an existing deck on the south side of the house that they would like to enclose. With the location of the deck and weather elements, they seldom get to use it.

Flottesch asked Kamrud if this property is within the unincorporated Townsite of Osage. Kamrud stated that his property is adjacent to the unincorporated Townsite of Osage, the property is a metes and bounds description. Kalil asked where the property was located in conjunction with the townsite and speed limit change. Kamrud stated that their house is the first place after the speed limit change (speed reduces for the townsite), right before the “town”. Johnston questioned the size. Kamrud stated that the enclosure would be 12 ft by 24 ft. Flottesch questioned if this was to enclose an existing deck, not construct new. Kamrud stated that it was to enclose an existing deck.

No one spoke in favor of the application. No one spoke against the application. There was no written correspondence either for or against the application. At this time, testimony was closed.

Further discussion was held regarding the location of the house and proximity to the townsite, lot coverage and setbacks.

Motion: Kalil made a motion to approve a variance to enclose an existing deck twenty-five (25) feet from the road right of way of State Highway #34 based on the size of the lot; location of existing structures; and the fact that this lot is adjacent to the unincorporated Townsite of Osage, which is a residential townsite. Flottesch second. All in favor. Motion carried. Variance approved.

SEVENTH ORDER OF BUSINESS: Michael West. Request a variance to construct a dwelling 72 feet from the centerline of the township road and 62 feet from the ordinary high water mark of the lake has been filed for the property described as: Pt of Govt Lot 4; Section 11, TWP 139, Range 40; Erie Township. PID Number 10.0153.000.

P. Johnson explained the application to the Board. The existing structure will be removed and a new house with attached garage will be constructed. The lake setback will be behind the string line, the side yard setbacks are met, there is no problem with the impervious coverage and the structure will be 72 feet from the centerline of the road.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Loren Potter, in favor of the application. At this time, testimony was closed.

Discussion was held. Flottesch stated that this is logical use of the land and does not overload the lot. There would be no problem with impervious and there are topography problems the closer to the lake.

Motion: Flottesch made a motion to approve a variance to allow a house and garage 72 feet from the centerline of the township road and 62 feet from the ordinary high water mark of the lake due to the size and shape of the lot and the topography of the lot. Oakes second. All in favor. Motion carried. Variance approved.

EIGHTH ORDER OF BUSINESS: Informational Meeting, Alternate Members, and Election of Officers.

The next informational meeting is scheduled for Thursday, May 6, 2004 at 8:30 a.m. at the Zoning Office.

With the resignation of Naomi Champ, the Board is one member short. Discussion was held on the need for alternates, changing the number of Board Members and if a decision is made, how the Ordinance would have to be changed. P. Johnson stated that there is no policy in place dealing with how alternate members are chosen. Elletson suggested that the alternate be chosen at the beginning of the meeting until the issue is resolved. Elletson also suggested that the alternates be eliminated and that there should be 7 board members. Flottesch suggested that the members should not represent districts, but rather the members should represent the county as a whole.

Elletson made a motion for Administrator Johnson to talk to the County Board about changing the Zoning Ordinance to allow for seven (7) Board of Adjustment Members and no alternates and that the members should represent the entire County and not individual Districts. Oakes second. All in favor. Motion carried. P. Johnson stated that she would address the County Board and check on the process and effective date.

Oakes then nominated Johnston for Chairman. Flottesch second and ceased nominations. All voted in favor of Johnston for Chairman. Motion carried. Johnston will be Chairman for 2004.

Flottesch nominated Kalil for Vice Chairperson. Elletson second and ceased nominations. All voted in favor of Kalil for Vice Chairperson. Motion carried. Kalil will be Vice Chairperson for 2004.

Discussion was held regarding a checklist to use during the tours so that the Board looks at the same items on each property and does not forget to look at certain items. Kalil stated that she has made a form for the Board to look at. The consensus of the Board was to try the form to see how it works and amend as needed. It was also suggested that

everyone should use the form at the site and this information transferred to one form at the meeting and placed in the file.

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

Harry Johnston, Chairman

ATTEST

Patricia L. Johnson, Administrator