

**Becker County Board of Adjustments  
Appeal Meeting  
August 11, 2004**

Present: Members Harry Johnston, Tom Oakes, Terry Kalil, Jerome Flottesmesch and John Tompt; Zoning Administrator Patricia Johnson, and Zoning Staff Debi Moltzan.

Chairman Johnston called the meeting to order at 6:30 p.m. Debi Moltzan recorded the minutes.

Chairman Johnston explained the jurisdiction of the Board, what the notice of appeal entails, what issues need to be addressed. Johnston stated that the Shea's are appealing the Zoning Office's decision that the new boathouse must be removed from the property. The Board must determine whether to reverse or affirm wholly or partly, or modify that decision.

Ed Shea explained to the Board why he is appealing the decision. The boathouse is over 50 years and it needed attention. The concrete was left in place and the wood sidewalls and roof were removed. Shea stated that he knew that permits might be needed because he had obtained permits for an addition, the septic system and wiring. Shea stated that he looked up the statutes on line and had family members look at the statutes and they felt that since they were just repairing the structure, it did not require a permit. The back cement wall and sidewall was saved, filled in with gravel and new structure was put on the spot. Shea thought the structure was grandfathered in. Shea further stated that when he obtained a permit in the 80's he asked about repairing the boathouse and was told by the Zoning Office that he did not need a permit. Now that the work was to be done, he felt that a permit was not required.

Kalil questioned where the concrete walls were and how tall they were. Shea stated that the wall was a couple of feet tall on the lakeside and a foot tall on the backside; which was filled in with gravel and they built on top. Kalil questioned if the structure was fastened to this concrete. The Shea's stated that they did not know.

Tompt stated that he did not see any concrete walls and questioned if they were still there. Shea stated that they were but under the gravel, underneath the structure.

Flottesmesch stated that it appeared that the floor of the new structure is higher than ground level. Shea stated that it was. Shea stated that a person had to step down into the old structure and a person actually has to step up into this structure.

At this time, testimony was closed and discussion was held. The Board did agree that this structure was a nonconforming structure. Oakes stated that the structure was completely torn down and a new structure was built; which is totally against the Ordinance. Oakes further stated that the Board couldn't go against the Ordinance. Flottesmesch stated that if the existing structure was left and maintained, a permit would not have been required; but the existing structure was removed and a new one built.

Further discussion was held regarding what is a structural change and what is not a structural change; restoration of a structure destroyed or removed by more than 50% and normal maintenance as outlined in Sections 4 and 17 of the Ordinance and that it does not meet the criteria of a water-oriented structure as outlined in Section 12.

Flottemesch stated that this was more than just repair; this structure was removed and rebuilt. Flottemesch stated that the Board has been strict on structural changes of nonconforming structures. Tompt stated that the work done was major structural changes not normal maintenance. Kalil agreed that is exceeded normal maintenance.

Kalil stated that the Board needed to concentrate on the main point: did the Zoning Office error on requiring the removal of the structure.

**Motion:** Oakes made a motion to deny the appeal and affirm the decision of the Zoning Office that the Zoning Office did not error on the interpretation of the Zoning Ordinance that the existing structure was removed and a new structure built; and the lot does not meet the criteria to allow a water oriented structure. Kalil second.

Further discussion was held regarding a time line for the removal of the structure.

Oakes amended his motion to read: deny the appeal and affirm the decision of the Zoning Office that the Zoning Office did not error on the interpretation of the Zoning Ordinance that the existing structure was removed and a new structure built; and the lot does not meet the criteria to allow a water oriented structure with the stipulation that the structure be removed by November 1, 2004. Kalil second the amended motion. All in favor. Motion carried.

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

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Harry Johnston, Chairman

ATTEST \_\_\_\_\_  
Patricia Johnson, Zoning Administrator