

**Becker County Board of Adjustments
October 8th, 2009**

Present: Members: Jim Bruflodt, Steve Spaeth, Clifford (Kip) Moore, Al Chirpich, Jerry Schutz, Merle Earley and Bill Sherlin.

Zoning Staff: Administrator Patty Swenson and Julene Hodgson

Chairman Bruflodt called the meeting to order. Julene Hodgson took minutes.

Minute approval: The August minutes were discussed. The motion in the Third Order of Business was to include: Bill second. All in favor except Schutz. Motion carried for denial. Sherlin made a motion to approve the minutes as corrected from the September 10th, 2009 meeting. Earley second. All in favor. Motion carried.

Chairman Bruflodt explained the protocol for the meeting. Spaeth read the criteria for granting or denying a variance.

OLD BUSINESS:

FIRST ORDER OF BUSINESS: APPLICANT: Lonnie and Patricia Nelson 3792 Park Street Fargo, ND 58104 Project Location: 24185 Woodland Ln LEGAL LAND DESCRIPTION: Tax ID number: **R191936000 Sallie** Woodland Beach .26 ac lot 28 & Pt lot 29 **R190121000 Munson** .12 ac E 50' of that part of Lot 2 Section 08, TWP 138, Range 41, Lake View Township. **APPLICATION AND DESCRIPTION OF PROJECT: Revised:** Request a Variance to construct a 22x26 detached Garage 15 feet from the ROW on **Lake Sallie** due to a substandard lot of record. A westerly/side access is proposed off of the Township road to enter into the garage, the size proposed does not exceed the allowable size for this property. The request deviates from a detached accessory structure to be located 20 feet from the ROW. **This was a tabled application from the September 10th hearing.**

Lonnie Nelson explained the application to the Board. The new plan addressed the concerns of the Board by downsizing the garage proposed to comply with the 5% rule so that is not a part of the request. The roofline would be run N/S to run away from the lake with the doors facing west to gain access into the side of the garage off of the road. The proposal would be 15 ft from the ROW and 25.5 ft from the blacktop, which is similar to others permitted by Variance in the area. Spaeth asked if Nelson had weighed the thought of attaching the garage to the existing cabin to get further away from the road. Nelson explained he did not think this would be feasible because the foundation for the cabin would not accommodate the floating slab of the garage to be attached to it, there would be different movement. Sherlin asked if these were two separate Variance requests for the Sallie side and the Munson side, to which Nelson answered yes. Schutz stated it would not be probable to attach the existing cabin to the garage. Nelson stated to Bruflodt the west trees would be removed to gain entrance into the side of the garage.

No one spoke in favor of the application. No one spoke against the application. There were no further letters of correspondence on file for or against the application. At this time, testimony was closed.

Further discussion was held by the Board. Spaeth stated this is a much better plan and the attaching does not seem to be an option. Sherlin stated this accommodates the safety issues and would give reasonable use.

MOTION: Sherlin made the motion a Variance be granted to construct a 22x26 detached garage 15 feet from the ROW on Lake Sallie due to a substandard lot of record with the stipulation a westerly/side access is implemented off of the Township road to enter into the garage. Schutz second to approve as submitted. All in favor. Motion carried.

NEW BUSINESS:

FIRST ORDER OF BUSINESS: Lonnie and Patricia Nelson 3792 Park Street Fargo, ND 58104
Project Location: 24185 Woodland Ln LEGAL LAND DESCRIPTION: Tax ID number: **R191936000 Sallie** Woodland Beach .26 ac lot 28 & Pt lot 29 **R190121000 Munson** .12 ac E 50' of that part of Lot 2 Section 08, TWP 138, Range 41, Lake View Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a 10x16 structure 15 feet from the ROW with an average of 41 ft from the ordinary high water mark of **Munson Lake** due to a substandard lot of record. There is no formal driveway or approach proposed to the structure. Mitigation measures will be implemented and the historical ice ridge will not be moved or altered. The request deviates from a detached accessory structure to be located 20 feet from the ROW and in the shore impact area.

Lonnie Nelson explained the application to the Board. He downsized the request to a single story 10x16 gazebo type structure. The one side would be 42 ft from the OHW the other would be 39 ft with a 15 ft setback from the ROW. The ridge would be constructed to control runoff and Nelson proposed a vegetation buffer area. There would be no driveway into the property and the structure/property would remain rustic with no water, electricity or plumbing. Brufloft asked Nelson if he needed a structure on the Munson property to enjoy the lake to which Nelson stated yes.

No one spoke in favor of the application. No one spoke against the application. There where no further letters of correspondence on file for or against the application. At this time, testimony was closed.

Further discussion was held by the Board. Brufloft stated the proposed structure would still be located in the SIZ area within the first 50 ft and is asking to vary away from the required road setback as well. Spaeth stated to remain consistent the Board should not allow anyone to construct a structure in the SIZ especially on property that is vacant. Spaeth reminded the Board that a similar application was denied for the abutting property to which the applicant asked for a small shed. What was eventually approved was a small in-ground deck only. Spaeth stated they are not denying reasonable use of the property because in this case with such a small lot, reasonable use can be just the access to the lake. Chirpich stated since the abutting property was denied with a similar request, the Board should stay consistent and in general harmony of the neighborhood. Sherlin stated they are trying to stay consistent with denying the construction of structures in the SIZ area.

MOTION: Sherlin made a motion a Variance be denied to construct a structure 15 feet from the ROW and 41 feet from the ordinary high water mark of Munson lake due to the request was contrary from the official control of the Ordinance. Chirpich second. All in favor. Motion carried.

SECOND ORDER OF BUSINESS: APPLICANT: Steven & Jane Stromme 32205 Noble Oak Cir Avon, MN 56310 Project Location: Govt Lots 3 & 4 LEGAL LAND DESCRIPTION: Tax ID number: **R270062001** Govt Lots 3 & 4 AKA W1/2 SW1/4 Section 18, TWP 142, Range 36 Savannah Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a rustic cabin on property with no public road frontage due to road issues. This deviates from Section 4 Chapter 8 of the Ordinance.

Steve and Jane Stromme explained the application to the Board. They would like to construct a small rustic cabin on their 78 acres of property. The request is due to the road issue of using tax forfeited property and DNR forestry trails to access the property. Chirpich asked how long they owned the property to which Steve answered one year. Chirpich asked if they where aware of the ramifications if things change with the surrounding properties as in ownership, this does not guarantee them access, to which Steve answered yes. Chiprich stated they own property that are investing in DNR approval for access for now, but that can always change, and they could become landlocked with no access. Spaeth asked Steve if he was aware of the structure regulations as in the size allowed and the cabin and property cannot contain water/well, plumbing, sewer or electricity to which the Strommes answered yes. Chirpich also stated to the Strommes that there is a public safety issue for the them knowing that no emergency equipment will be able to come

onto the property due to the trails being utilized for access. The Strommes again stated that all the provisions were understood.

No one spoke in favor of the application. No one spoke against the application. Written correspondence where received from Iris and Kenneth Shepard, Jay Mondry, Mark "Chip" Lohmeier the Natural Resources Management Administrator, and Mark Carlstrom the DNR Area Forest Supervisor of Park Rapids who where all in favor of the application. At this time, testimony was closed.

Further discussion was held by the Board. Brufloft apologized to the applicant for the Board not making it to the property on the tour date. Spaeth stated this has been done in the past. Chirpich stated again the owners are aware of all ramifications.

MOTION: Spaeth made the motion a Variance be granted to allow a primitive cabin on the above property based on the fact that this would give the property reasonable use and with the following stipulations: 1) Construction of the structure does not mean that the Board has conveyed access to the property nor guarantees access to the property in the future. 2) The structure/property must remain primitive with no water supply/indoor plumbing and/or sanitary disposal facility and no electricity. The structure cannot cover more than 700 sq ft of land surface and shall not exceed 15 feet in height. Chirpich second. All in favor. Motion carried.

THIRD ORDER OF BUSINESS: APPLICANT: Mark/Tracie Askegaard 2339 Montana Ave E Maplewood, MN 55119 Project Location: 21524 Cty Rd 117 Osage LEGAL LAND DESCRIPTION: Tax ID number: **R330330000** Toad Lake Lot 22 1st add to the Pines Section 04, TWP 139, Range 38 Toad Lake Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a two story addition to the rear and a second level above part of an existing nonconforming dwelling located 40 feet from the ordinary high water mark of the lake and in the shore impact zone due to setback issues of the existing dwelling and a substandard lot of record. This deviates from structures shall be located out of the shore impact zone.

Tracie Askegaard and Contractor Dave Francis explained the application to the Board. They are requesting the Variance to turn the residence into a year around home. Spaeth asked why they are requesting to construct over the existing cabin, and Dave stated they want to add to the back of the existing with a tuck-under garage and aesthetically it would look nice as a whole. They would not be changing the front dimensions of 30x28, just adding the second story onto it. Spaeth asked if they could do without going over the original cabin and Dave think the foundation is "sound" enough to accommodate the second story addition. Dave stated they want to add insulation to the existing foundation area, but they assure it will support what they are proposing. They have mitigation proposed for the property for a vegetation buffer along the shoreline. Moore stated previously a neighbor was approved with a similar request. Spaeth stated that application was different, there where no other alternatives for the property due to a creek running through the property. The applicant did a partial second story over the existing with an addition onto the rear, but did not construct a second story over the entire front of the structure closest to the lake. Spaeth continued to say this application/property has other alternatives as in adequate lot depth to move the structure back. Sherlin suggested cutting off the nonconforming part of the cabin, then constructing to the rear and over the remaining existing part. Sherlin asked if the crawlspace area had anything located in it, to which Dave stated the furnace, which would be relocated.

Yvonne Kangas and John Dalen spoke in favor of the application. No one spoke against the application. Written correspondence where received from Bryan & Liz Hughes, Janelle Driscoll and Todd Amberg in favor of the application. At this time, testimony was closed.

Further discussion was held by the Board. Sherlin asked clarification regarding the request. On the paperwork of the request, it stated the rear addition with a second story and the second level would be 45x28 with the Board understanding the request was going to be only over 1/2 of the existing cabin. Dave clarified the proposal was to go over the entire existing cabin with a second story. Spaeth stated the Board should stay consistent with denying new construction in the SIZ. The purpose is to get the structures moved back further from the lake if possible. Moore asked the Board if the application would be looked at

differently if the owners would not touch the first 10 feet of the cabin that is located in the SIZ and just add onto the rest of it to which Spaeth stated they would still be adding onto the structure located in the SIZ and they have ample room to move back toward the road. Spaeth stated if they were going to do foundation work, can move back and still make the setback from the existing septic area, the structure would be out of the SIZ, behind the neighboring stringline and could be permitted without placing a Variance on the property. The property has plenty of depth and the property would be considered conforming.

MOTION: Spaeth made a motion a Variance be denied as proposed on the above property due to an undemonstrated hardship of the property.

Early second. All in favor except Moore and Schutz. Motion carried for denial.

FOURTH ORDER OF BUSINESS: APPLICANT: Mickey Syrquin 5849 Pinehurst Ct Grand Forks, ND 58201 Project Location: 29712 387th Str Waubun LEGAL LAND DESCRIPTION: Tax ID number: **R200546000** White Earth Lot 1 Nemee Beach; Section 08, TWP 142, Range 40 Maple Grove Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request an after the fact Variance to allow a nonconforming deck located in the shore impact zone with expansion and ahead of neighboring stringline to remain due to the setback issues of the existing structure. This deviates from the MN Stat 394.36.

Mickey explained the application to the Board. He purchased the cabin 3 yrs ago and the existing deck was rotten. There was a deck with stairs and a catwalk to the lake. The existing steps of the catwalk are concrete and the existing wood stairs were placed over that. The newly constructed deck is permeable with nothing but grass under it. There was a letter of complaint received on the property after the new deck was constructed. Mickey stated he has a purchase agreement pending on the property and he has a purchase agreement pending on another piece of property for himself. Syrquin stated the new deck does not go any closer to the lake than the previous one, but they constructed it with two rectangle areas to give more room with the lower landing deck area having wood stairs with rail on the lakeside and no covering. The stairs go to the back and also at lakeside to tie it into the stairs that proceed down to the lake. Chirpich asked if the pictures in the file are accurate for the previous deck and now the newly constructed deck area to which Syrquin answered yes. Sherlin stated if these are correct, there was not a previous deck on the right hand side of the cabin in front of the living room area to which Syrquin added, that is correct we added more deck to be in front of that area. Chirpich asked if at the time the friends constructed the deck for Syrquin, did they not realize a permit was needed for new construction to which Syrquin answered no.

No one spoke in favor of the application. No one spoke against the application. There was a letter of correspondence on file from Erik and Gretchen Rockstad read to the Board by Swenson for the application. At this time, testimony was closed.

Further discussion was held by the Board. Once again Chirpich noted the previous deck did not have steps and the lower landing deck area. Spaeth asked if the application would have been made into the office to replace the existing deck area with no expansion, would that have been allowed although the existing was located in the SIZ. Swenson answered yes, the MN Statute allows the replacement of an existing nonconformity with no expansion with an approved site permit. Sherlin stated the request comes from expansion confirmed by testimony and paperwork on file with the expansion in the SIZ. Schutz asked if the stairs and walkway were apart of the request, to which the owner stated that had always been there, just not attached to a deck area. Sherlin stated the expansion of the deck is the concern. Brufloft noted the square footage was 240 sq ft versus the now approximately 605 sq ft. Schutz agreed the owner should be able to replace the 240 sq ft they currently had but not add anymore. Brufloft asked the applicant if he wanted to table the request to look at options of applying for anything different, to which the owner requested a decision be made by the Board for the application in front of them. Sherlin stated they should deny the expansion to remain with the previous amount giving the property reasonable use at lakeside. The applicant can make application into the Zoning office to apply for where they want the 240 sq ft to be located in front of the existing cabin.

MOTION: Schutz made a motion a Variance be denied to allow expansion of a nonconforming deck due to an undemonstrated hardship of the property. Chirpich second. All in favor. Motion carried for denial.

FIFTH ORDER OF BUSINESS: APPLICANT: David and Nancy Nelson 13009 Taylor St NE Blaine, MN 55434 Project Location: 21964 Co Hwy 32 LEGAL LAND DESCRIPTION: Tax ID number: **R100729507** Lot 7 Block 1 Strobel Shores Section 03, TWP 139, Range 40 Erie Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a dwelling 80 ft from the ordinary high water mark of the lake and ahead of neighboring stringline and 50 ft from the centerline of a county rd due to the substandard sized lot of record.

Dave Schiller served as acting agent for the applicant to explain the application to the Board. They are requesting the Variance on the property to coincide with the neighboring properties previous Variance requests. They would like a footprint 50ft from CL by 80ft from the lake to apply to the property for future potential buyers to work with. This request is larger than a building would need and they wanted the preference to construct as close to the lake as possible and stay as far away from the ROW that they could. Dave explained the neighbors Variances that where in place and the Board had the copies to refer to in their information. Dave stated when the land was subdivided, it was talked about placing verbage on the property that would state the lakeside lots could not be built on, that is why the rear lots had to be sold and remain with the lakeside lots. Although the descriptions state the rear lots cannot be sold away from the lakeside lots, nothing was recorded stating the front lots cannot be built on. So a few years after the lots where recorded, the new owners applied for Variances to construct on the lots. Schiller stated again the owners want some guidance as to where something could be placed. Sherlin stated the owners could construct on the backlots, which are much larger and reasonable use of the front lots are access to the lake. Spaeth stated the minutes of the subdivision process where clear that the intent was to have no houses on the lakeside because there was not enough depth and setbacks could not be met.

No one spoke in favor of the application. No one spoke against the application. There where no further letters of correspondence on file for or against the application. At this time, testimony was closed.

Further discussion was held by the Board. Spaeth stated the lots where created after Zoning started in the County, and there are clear minutes of why they where approved, even though the stipulation did not get added to the final plat. Spaeth stated the statement of a buildable lot would not apply with the reasonable use being access. Spaeth said another Board set precedent by approving Variances that should not have been approved. Sherlin stated these are a part of another lot that is across the road and cannot see granting hypothetical Variances for hypothetical requests. Sherlin stated this is an economical request trying to have a Variance in place for potential buyers. Schutz agreed the lot is not large enough for what is being requested. Brufloft stated the request would have been looked at differently with a specific footprint and requested setbacks. Chirpich agreed the previous Boards where judiciary at that time by granting the Variances, if this request is denied, another owner of the property could come to the current Board or a different Board with a more specific request and it may be granted or denied. Due to the request and the way it is stated, the Board could deny because the request is not specific enough. Spaeth again stated it should be denied because when the lots where created it stated they did not have enough depth from the lake and the road to construct structures, he believes these where stipulations they where conveying.

MOTION: Spaeth made the motion a Variance be denied due to the hypothetical nature of the application with no definite site plan for the property proposed and since the lot was created after the adoption of Zoning it made a non-buildable lot. Chirpich second. All in favor except Moore. Motion carried for denial.

FINAL ORDER OF BUSINESS: Informational Meeting. The next informational meeting is scheduled for Thursday, November 5, 2009 at 7:00 a.m. at the Courthouse 3rd floor meeting room.

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

Jim Brufloft Chairman

ATTEST

Patricia Swenson, Zoning Administrator