

**Becker County Board of Adjustments**  
**July 14, 2011**

**Present:** Members Bill Sherlin, Al Chirpich, Jim Bruflodt, Kip Moore, Steve Spaeth, Lee Kessler and Zoning Staff Debi Moltzan.

Chairman Bruflodt called the meeting to order at 7:00 p.m. Debi Moltzan took the minutes.

Bruflodt explained the protocol for the meeting and Vice Chairman Spaeth read the criteria for which must be met in order to grant a variance.

Moore made a motion to approve the minutes from the June 2011 meeting. Sherlin second. All in favor. Motion carried.

**FIRST ORDER OF BUSINESS:** Paul and Mardeth Dovre. Request a variance to construct a 16 ft by 28 ft house addition with a separate foundation onto a nonconforming structure on the property described as: .98 Ac tract being 185 ft on lake lying 200 ft Wly of & parallel to E line of Lot 5; Section 8, TWP 142, Range 37; Forest Township. PID Number 12.0058.000. The property is located on Bad Medicine Lake at 38453 Lloyd Larson Road.

The Dovre's explained the application to the Board. The existing structure is nonconforming and was constructed about 45 years ago. There is a retaining wall on the lakeside that adds stability to the structure. The addition would be constructed with a separate foundation and could be moved eight (8) feet further south to be out of the bluff impact zone.

Bruflodt questioned what the practical difficulty is. Dovre stated that the structure is a 3-bedroom home and is not large enough for their family and friends. Moore questioned if there had been any consideration for a guesthouse. Dovre stated that the location for a guesthouse would be problematic due to the topography. Moore also stated that he did not like to see the existing downspouts draining directly toward the lake. Dovre stated that he is willing to install a rain garden.

Speaking in favor of the application was Don Rice. No one spoke against the application and there was no written correspondence either for or against the application. At this time, testimony was closed and further discussion held.

Discussion included the construction of a guesthouse, alternatives, mitigation, and the nonconformity of the existing structure. Sherlin stated that the State law and Ordinance are clear that what is there can remain, but not expanded. The existing structure has reasonable use without expansion and could not see a practical difficulty. Spaeth agreed and stated that the Board had denied 2 or 3 similar variances on that lake last year. Moore stated that he agreed, but felt something could be done so that mitigation stipulations could be imposed.

Kessler apologized for being late and stated that he had not been on the tour, but read the information and had to agree with Sherlin because he did not see a practical difficulty.

**Motion:** Sherlin made a motion to deny the variance to allow an addition onto a nonconforming structure based on the fact that it does not meet the standards of practical difficulties and the criteria for granting a variance could not be met. Spaeth second. All in favor except Moore. Majority in favor. Motion carried. Variance denied.

**SECOND ORDER OF BUSINESS: Curtis and Beverly Konkler.** Request a variance to construct an addition to repair the west wall of the cabin along with adding an 8 ft by 20 ft addition onto the cabin being only thirty-five (35) feet from the ordinary high water mark of the lake for the property described as: West 75 ft of Lot 1, Posterity Beach; Section 2, TWP 142, Range 38, Round Lake Township. The property is located on Pickerel Lake at 44250 Posterity Beach.

The Konkler's explained the application to the Board. The current basement is a wood foundation and the west wall is buckling. An engineer was consulted and the engineer stated that the structure had not been correctly backfilled. A contractor suggested that the dirt be removed and a solid concrete wall be placed about eight (8) feet from the existing wall to alleviate the pressure. The cabin could be lifted and the wall replaced with a block wall, but the contractor felt that this option would be cost prohibiting. A surveyor was hired and he determined that the structure was forty-five (45) feet from the OHW, not thirty-five (35).

Spaeth questioned if an addition would be constructed on top of the proposed foundation. Konkler stated that an addition would be constructed and stated that the contractor stated that if you need to dig out four (4) to five (5) feet to alleviate the pressure, then you might as well go eight (8) feet. Spaeth questioned why the bad backfill couldn't be removed and replaced with the correct fill. Konkler stated that the contractor felt that would not correct the problem.

Further discussion was held regarding replacing the wall in the exact same location without a variance; expansion to a nonconforming structure; and location of the OHW. The Konkler's stated that they have been trying to protect the lake by stopping run off into the lake by constructing a berm.

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 and further discussion held.

Spaeth stated that one of the contractors involved with the project is a distant relative of his and was wondering if there was the possibility of a conflict of interest. Brufloft felt that the nature of the relationship would not be a conflict. Chirpich and Spaeth stated that the wall could be repaired or replaced without a variance. Chirpich stated that he will not dispute the contractors estimates, but does not see how more digging, more concrete and

an addition would be cheaper than supporting the house, removing one wall and replacing the wall. Sherlin stated that this would be an expansion of a nonconforming structure, there is reasonable use and there is no practical difficulty. Moore and Kessler agreed.

**Motion:** Chirpich made a motion to deny the variance to construct an addition onto a nonconforming structure based on the fact that a practical difficulty could not be found and there is an alternative to save the building, without enlarging the structure, not requiring a variance. Spaeth second. All in favor. Motion carried. Variance denied.

**THIRD ORDER OF BUSINESS: Wade and Allison Frank.** Request a variance to construct a screened deck fifty-four (54) feet from the ordinary high water mark for the property described as N ½ of N ½ of Lot 32 and All of Lots 33 and 34, Blackhawk Mountain Beach First Addition, Section 32, TWP 139, Range 42, Audubon Township. PID Number 02.0276.000. The property is located on Little Cormorant Lake at 16061 W Little Cormorant Rd.

Frank and Keith Urlacher explained the application to the Board. Two families own the property with five kids and the cabin is not large enough. They want an outside place large enough for them to gather. Because of the 100 ft set back, there is no flat place to place a building and they do not want to prohibit access to their well or cut down trees. They understand that the rules are there to prohibit run off to the land and impacting the neighbors view and is willing to add gutters to the house.

Spaeth questioned how far the structure would be from the house, property line and well. Frank stated that the proposed structure would be 12 feet from the side lot line, 30 to 40 feet from the house and the well is about 40 feet from the house. Chirpich questioned if the other side of the house was used for the access to the lake. Frank stated that they use the public access for landing the launching watercraft but the lifts and docks are stored there in the winter. Sherlin stated that this structure would be a deck with walls and a roof, not a deck. Chirpich questioned if the lot would allow for a water-oriented structure. Moltzan stated that the lot does not have the topography for a water-oriented structure.

No one spoke in favor of the application. No one spoke against the application. Audubon Township Board reviewed the application and was neither for nor against the application. At this time, testimony was closed and further discussion was held.

Sherlin stated that this is a conforming lot and structures should be built within the confines of the Ordinance – there is no evidence of a hardship. Spaeth pointed out that denial could not be based on the size of the structure, but the setback. Sherlin felt that variances are for substandard size lots and on a standard size lot there is no hardship. Brufloodt stated that the primary concern of the board is moving structures further from the lake and mitigation, not sight lines of neighbors and that some people have to move their structures back sooner than others.

Spaeth stated that the variance should be denied because there are other alternatives without a variance. Chirpich agreed but wanted to throw something out for discussion so that all possibilities were considered – if the structure were 100 feet back from the lake it would not be in a viable location to watch the kids at the lake. Brufloft stated that allowing a structure just to watch kids does not constitute a practical difficulty of the property. Sherlin stated that the size of the lot does not warrant a variance and the size of the family does not warrant a variance. Chirpich stated that he is not disagreeing, just wanted all possibilities explored.

**Motion:** Spaeth made a motion to deny the variance to allow a screened deck 54 feet from the OHW based on the fact that it does not meet the standards of practical difficulties, the criteria for granting a variance could not be met and there are alternate locations to construct a screened deck. Chirpich second. All in favor. Motion carried. Variance denied.

**FOURTH ORDER OF BUSINESS: Informational Meeting.** The next informational meeting is scheduled for Thursday, August 4, 2011 at 7:00 am in the 3<sup>rd</sup> Floor Meeting Room of the Original Courthouse.

Since there was no further business to come before the Board, Chirpich made a motion to adjourn the meeting. Moore second. All in favor. Motion carried. Meeting adjourned at 8:10 p.m.

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Jim Brufloft, Chairman

ATTEST

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Patricia L. Swenson, Administrator