

**Becker County Board of Adjustments  
August 8, 2013**

**Present:** Members Harry Johnston, Al Chirpich, Steve Spaeth, Lee Kessler, and Zoning Staff Debi Moltzan.

Vice Chairman Spaeth called the meeting to order at 7:00 p.m. Debi Moltzan took minutes. Spaeth explained the protocol of the meeting and Chirpich read the criteria that must be met in order for a variance to be approved.

Kessler made a motion to approve the minutes from the July 2013 meeting. Chirpich second. All in favor. Motion carried.

**FIRST ORDER OF BUSINESS: Paul Friesen.** Request a Variance to construct a dwelling 52 ft. from the OHW of the lake and 25 ft. from the right of way of a County Road for the property described as: PIN 100693205, Lot 2 Block 3, Puttbrese Acres; Section 12- TWP 139-Range 40. Erie Township. The property is located just North of 20858 Co Hwy 29 on Cotton Lake.

Friesen explained the application to the Board. Friesen stated that he acquired the property for seasonal use. Having a home across the road from the lake is not a desirable situation with grandchildren crossing the road to go to the lake. Friesen would like to build a dwelling on the lake side that would be 52 ft. from the bay, but would be much farther from the main portion of the lake. Friesen further stated that there was a mobile home and garage on the property on the opposite side of the road.

Chirpich questioned if Friesen plans on building on the property or selling the property. Friesen stated that if a variance is granted, he would build, otherwise, he will have to sell the property. Kessler questioned the setback from the road right of way. Friesen stated that he thought the right of way was 66 ft. when submitting the proposal. Since then he found out that the right of way is actually 100 ft., making his building 5 ft. and 14 ft. from the right of way.

Speaking in opposition to the application was: Bruce Livingood, Nancy Callender, Vera Cooper, Mary Kay Lilja, Bruce Walla and John Schmit. Letters of opposition were received from: Richard Callender, Donald Davis and Dr. Jane Ball, and Kevin Swann. At this time, testimony was closed and further discussion was held.

Discussion held included the fact that a house already existed on the non-riparian side and only one dwelling is permitted per parcel of land; although the location of the house may be less desirable, the property has reasonable use; and at the time the lots were platted, it was stated that the riparian lots were for access only and not buildable.

**Motion:** Kessler made a motion to deny a variance to construct a dwelling 52 ft. from the OHW of the lake and 25 ft. from the right of way of a County Road based on the fact that the property already has reasonable use with a dwelling on the non-riparian lot and the fact that the original plat was approved with the riparian lots as non-buildable and access lots only. Chirpich second. All in favor. Motion carried. Variance denied.

Johnston commented that the 1988 legal description of the property stated that the riparian lots cannot be conveyed separately from the non-riparian lots and the riparian lots are non-buildable.

**SECOND ORDER OF BUSINESS: Ryan and Monica Nelsen.** Request a Variance to construct an addition onto an existing nonconforming structure 45 ft. from the OHW of the lake for the property described as: PIN 080917000, S ½ of Lot 8 and Lot 9, Floyd Lake Beach, Section 10, TWP 139, Range 41; Detroit Township. The property is located on Floyd Lake at 20198 Co Rd 131.

Phil Thompson, acting agent, explained the application to the Board. The Nelsen's would like to place an addition onto the existing house. The addition would not be going closer to the lake than the existing house. The existing house is in line with the 'old string line' but is nonconforming under the new setback average plus 20 ft. When the last addition was put on the cabin, the driveway was replaced with permeable pavers, so the proposed lot coverage will be at 21%.

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 was held.

Kessler stated that the house is in line with the neighboring houses and that an excellent job has been done on the property, but was concerned about future run off to the lake. Thompson stated that the existing house is guttered and the water is diverted to French drains and the addition will also be guttered and diverted to French drains. Currently the French drains are working well. Chirpich stated that the addition will not be going closer to the lake than the existing and care has been taken to protect the lake and that the addition would not be detrimental to the lake.

**Motion:** Johnston made a motion to approve a variance to construct an addition onto a nonconforming structure 45 feet from the ordinary high water mark of the lake based on the fact that the existing dwelling is located at the 'old string line' and the addition would not go closer to the lake than the existing structure and that storm water is being managed on the property. Chirpich second. All in favor. Motion carried. Variance approved.

**THIRD ORDER OF BUSINESS: Mark and Maria Voigt.** Request an extension on a variance granted September 8, 2011, as recorded in Document Number 591361 for the property described as: PIN 330372000, Lot 10, Sylvan Shores, Section 8, TWP 139, Range 38, Toad Lake Township. The property is located at 20831 W Toad Lake Drive on Toad Lake.

At this time, Kessler recused himself from the Board due to conflict of interest.

Mark and Maria Voigt explained the application to the Board. Since the time that the variance approved in 2001, they applied for a Lake Stewardship Grant (which they did not receive), removed dead trees and personal medical hardships. When they thought that they were not going to meet the two year deadline, they put the property up for sale. Currently, the for-sale sign is still up, but the property is no longer listed with anyone. They would really like to build on the property, but do need more time, they do not want to get rid of the property.

Michelle Buhr stated that besides the medical hardships, the existing foundation needs to be removed. The Voight's have been diligently working on getting bids and trying to make progress, but there are many contractors that have either not responded to their requests or have taken a long time to respond.

Written correspondence was received in opposition to the application from: John Postovit, COLA; Lori Mitchell, Toad Lake Association; Judy Brannon; Marlene and Al Bekkerus; Diane Arnold; and Fred and Marilyn Tuominen. At this time, testimony was closed and further discussion was held.

Johnston stated that this lot is a lot of record and is buildable with a variance – what is the difference if a variance is given, they build and then sell or a variance given and then sell. Further discussion was held regarding a timetable should an extension should be given. The timetable discussion included whether significant progress should be make yet this construction season; a two year extension or a one year extension.

**Motion:** Chirpich made a motion to approve a one year extension based on the fact that the footprint of the original variance has not been changed and the fact that there were significant personal hardships preventing them from beginning their project. Johnston stated that he would second the motion if the deadline could be extended until October 2014. Chirpich amended his motion to say: approve an extension on a variance granted 8, 2011, as recorded in Document Number 591361 until October 1, 2014 based on the fact that the original variance has not been changed and the fact that there was an attempt to implement the variance, but personal hardships prevented them from implementation. Johnston second. All in favor. Motion carried. Variance extension approved.

At this time, Kessler rejoined the Board.

**FOURTH ORDER OF BUSINESS: Larry Hlavnicka.** Request a Variance to construct an addition onto an existing garage which would be 35 ft. from the OHW of the lake and exceed the allowable 1200 sq. ft. size structure within 200 feet of the OHW by 360 sq. ft. for the property described as: PIN: 200365000, Comm 400 ft. E of NW Cor Lot 1 Th E 5111 ft. & N to Beg; Section 26, TWP 142, Range 40; Maple Grove Township. The property is located at 32871 355 St on Strawberry Lake.

Larry and Nancy Hlavnicka explained the application to the Board. They are making this place their year-round home and need more storage room. They would like to add onto an existing structure. The addition would be further from the lake than the existing structure. The Hlavnicka's own five (5) acres, but most of it is low land. Johnston questioned how much of the five (5) acres was buildable. Hlavnicka stated that about 1 to 1.5 acres was buildable.

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 was held.

Discussion included the fact that there are two issues with the garage, the size and the location. Kessler questioned if the garage could be added onto the house rather an addition onto the existing structure. Hlavnicka stated that the well would interfere with that idea. Kessler questioned how many people live on the road past Hlavnicka. Hlavnicka stated that there is one other person living further down the road. Discussion was held regarding the fact that the garage was permitted at 85 feet from the lake and in actuality; the garage is 85 feet from open water but only 35 feet from the ordinary high water mark of the lake. Chirpich stated that he did not see a practical difficulty because there is the option of moving the well and placing an addition onto the house and that the present storage shed is a maximum size.

**Motion:** Chirpich made a motion to deny a variance to construct an addition onto an existing garage which is 35 feet from the ordinary high water mark of the lake and which exceeds the allowable 1200 sq. ft. size based on the fact that there is no practical difficulty to grant a variance because there is reasonable use of the property, the present storage shed is at maximum size, the present storage shed is located within the shore impact zone and there are alternate locations to place an addition onto the house. Kessler second. All in favor. Motion carried. Variance denied.

**FIFTH ORDER OF BUSINESS: Mark and Judy Bryan.** Request a Variance to construct a detached garage 46 ft. from the centerline of a township road for the property described as: Tax ID number: 17.0724.000, Lake Lot 3 Haugen Beach; Section 30, TWP 138, Range 42, Lake

Eunice Township. The property is located at 16992 Haugen Beach Road on Big Cormorant Lake.

Randy Iwerks, contractor, explained the application to the Board. They are proposing a 14 ft. by 24 ft. garage. A portion of the asphalt and the garden shed will be removed.

Spaeth questioned the setback from the centerline of the road and what the setback is from the right of way. Iwerks stated that it is difficult to find the right of way due to the curvature of the right of way and not finding the actual property pins. Iwerks stated that the garage should be approximately 10 to 13 feet from the right of way. Johnston questioned why the garage could not be moved further west. Iwerks stated that by moving the garage further west, the cars would be backing out onto the curve and not on the straight away.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Lake Eunice Township with no objections to the application. At this time, testimony was closed and further discussion was held.

Discussion included the fact that a similar variance was granted in the past few years further east of this property; the road is a dead end road; and if a variance should be granted from the centerline of the road rather than the road right of way since they did not know if the road was in the center of the right of way. Discussion also included the location of the trees and location of the holding tank.

**Motion:** Johnston made a motion to approve a variance to construct a garage forty-six (46) feet from the centerline of the existing road based on the fact that the road is a dead end road and would not be detrimental to the surrounding area. Kessler second. All in favor. Motion carried. Variance approved.

**SIXTH ORDER OF BUSINESS: Informational Meeting.**

The next informational meeting is scheduled for Thursday, September 5, 2013 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. Kessler second. All in favor. Motion carried. Meeting adjourned.

\_\_\_\_\_  
Steve Spaeth, Vice Chairman

ATTEST \_\_\_\_\_  
Patricia L. Swenson, Zoning Administrator