

**Becker County Board of Adjustments**  
**October 8, 2015**

**Present:** Members Jim Kovala, Lee Kessler, Harry Johnston, Jim Bruflodt, Steve Spaeth and Zoning Staff Debi Moltzan.

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

Kovala made a motion to approve the minutes from the September 2015 meeting with corrections pointed out at the tour meeting. Spaeth second. All in favor. Motion carried.

Chairman Bruflodt explained the protocol for the meeting. Spaeth read the criteria which a variance can be approved.

**FIRST ORDER OF BUSINESS:** Randy & Debbie Stevens. Request to construct a dwelling fifty (50) feet from the ordinary high water mark (OHWM) of a tributary river. Legal Description: 08.0894.000, ERNIE'S BEACH, N PART LOT 7 BEING 115' ON LK & 170' ON RD; Sec 11, Detroit TWP. Project Location: Little Floyd Lake at 27338 Little Floyd Lake Road.

Randy and Debbi Stevens, along with Jason Coley explained the application to the Board. The mobile home would be removed and a new house would be constructed. The required setbacks can be met from the lake and the road, but not from the river.

Bruflodt questioned why the river setback could not be met. Stevens stated that the property is 115 feet wide at the lake and 170 feet wide at the road. If the required setback is 100 feet from the river and ten (10) feet from the side lot line, there is a strip of land five (5) to sixty (60) feet wide to place a house. If the house could be moved over to meet the setbacks, all the evergreen trees would have to be removed. These trees are 50+ feet high and over 50 years old. The current proposal would only require three (3) of the trees to be removed.

Further discussion was held regarding the size and shape of the lot, the required setbacks versus the proposed setbacks, if the house could be relocated to require a lesser variance, buffers, size of the existing house versus the size of the proposed house, keeping the existing garage, and storm water mitigation.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Brent Alcott, Pelican River Watershed District, stating that if the variance is approved, a condition of approval the District requests that the current vegetative buffer along the river be maintained and the maintenance should not include trimming, clearing

or removing any of the existing vegetation within the shore impact zone. At this time, testimony was closed and further discussion was held.

Johnston stated that there is a practical difficulty that the structure cannot get 100 feet from the river, should a variance be given for 50 feet should a different distance be granted. Maybe it would be reasonable for the applicant to table the request and come back with a different plan to keep the trees.

Kovala stated that maybe a lesser house should be considered. This request should probably be denied and they should come back with a different plan.

Kessler stated that the property to the north is about the same distance from the river as this request. Kessler stated that he did not have a problem with the request because he would like to see the trees saved.

Brufloft stated that there is a request/plan for mitigation by the Pelican River Watershed District which is to save the existing vegetation as part of the mitigation. Every foot that can be gained from the river is a plus.

Spaeth questioned why the application stated 50 feet from river and when the Board measured the proposed site, they got approximately 63 feet. Stevens stated that his property line is the fence line, which is 50 feet. There is about another 10 – 13 feet to the river. Spaeth stated that he felt this application should be denied as presented because he did not see a practical difficulty, however a variance may need to be granted in the future, but not for 63 feet.

**Motion:** Spaeth made a motion to deny the variance as requested based on the fact that a practical difficulty could not be proven. Kessler questioned if the applicant could still table the application. Brufloft stated that he had explained that at the beginning of the hearing. At this time, Stevens asked to table the application. The motion died for lack of second. Application tabled at applicants request.

**SECOND ORDER OF BUSINESS:** Wayne Volk. Request to allow a fourteen (14) foot easement instead of a thirty-three (33) foot easement in order to subdivide a parcel of land. Legal Description: 21.0110.000, PT GOVT LOT 2: AKA TRACT 2; Sec 17, Osage TWP. Project Location: Easement Road off Bog Lake Trail.

Virgil Pint and Wayne Volk explained the application to the Board. When the property was originally purchased, there were three partners. The original intent was to subdivide the property into three parcels, one for each partner. The subdivision process began, dividing one parcel off for the person that is no longer a partner. They acquired the appropriate easements, which was a

substantial amount of money. They felt that they had met all requirements and did not further pursue the final steps of subdivision for the other lot. Since that time, the Zoning Regulations have changed requiring a 33 foot easement rather than a 14 foot easement. The number of lots being served by the easement will not change ( 2 will use the 14 ft. easement and 1 will use the existing easement through R & D Resort, which is for the original cabin).

Spaeth stated that the Board usually deals with small lots, in this case it is large lots with an access issue, so what is the practical difficulty? Pint stated that the practical difficulty is that they cannot acquire more land for an easement. Further discussion was held regarding the size of the lots, the location, distance from emergency services, size of the existing easements, zoning requirements, when the zoning requirements changed, and the timeline of the lot subdivisions.

No one spoke in favor of the application. Speaking with concerns with the application was Kyle Oetker, with concerns on how this would affect his easement, which comes through R & D Resort. At this time, testimony was closed and further discussion was held.

It was clarified as to which lot/proposed lot was/would be serviced from which easement, the fact that the rules changed before the applicant was completed with his project, road and easement conditions and sizes in that general vicinity, emergency services and whether or not the easement could be upgraded.

**Motion:** Spaeth made a motion to approve the variance to allow a fourteen (14) foot wide easement to service to tracts of land instead of the required thirty-three (33) in order to subdivide a parcel of land due to the fact that the rules changed during their process of subdivision; the number of tracts being serviced by the easement will not change; and the easement is similar in size and condition as other easements in the area. Kessler second. All in favor except Kovala. Majority in favor. Motion carried. Variance approved.

**THIRD ORDER OF BUSINESS:** JJW (John Webber) Properties. Request to construct a storage building, which exceeds 2400 sq. ft. in size, which will be located within 400 feet of a lake. Legal Description: 19.0076.001, PT NE1/4 SE1/4: COMM E1/4 COR SEC 5; Sec 05, Lake View TWP. Project Location: Across the road from St Clair Lake at 24901 County Hwy 6.

The application was explained by John and Brock Webber. Their practical difficulty is that the zoning regulations changed midstream of their project. There are 7 acres that are zoned commercial and 4 acres that are zoned agricultural as a buffer. The commercial operation always included rental storage buildings and the existing commercial building is larger than 2400 sq. ft. in size. There is a steep hill behind the proposed buildings that interfere with moving the structures further from the lake. The existing slope is eroding, so that will be reshaped, and vegetation established. The slope is approximately 40 ft. high, so the structures will not be seen

by the residential development to the south. The road is 6 to 8 feet higher than the building site, so no run off will get to the lake and the road also divides the property from the lake. There is a natural low area in the northwest corner of the lot to collect storm water.

Brufloft questioned how many feet there was between the fence and the proposed building. B Webber stated that there would be about 76 feet, enough to allow a truck and trailer room to maneuver around the corner of the building. Johnston questioned if the fence was the property line. B Webber stated that the fence is the division between the commercial portion of the property and the agricultural buffer. Spaeth questioned where the storm water would be diverted. B Webber stated that it would be diverted to the northwest corner of the lot, which is a natural drainage and ponding area.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Brent Alcott, Pelican River Watershed District stating that a storm water permit would also be required from the Watershed district. At this time, testimony was closed and further discussion was held.

Kovala stated that the northwest corner was a natural collection area and that the immediate vicinity is industrial and commercial use. Johnston stated that the road is a natural separator between the lake and property and that the lake is not a recreational type of lake and the road is higher than the property. Spaeth stated that, although not written that way, the intent of the ordinance and size restrictions on storage buildings was intended for residential areas, which could be enough of a practical difficulty for granting a variance.

**Motion:** Spaeth made a motion to approve a variance to construct storage buildings exceeding 2400 sq. ft. in size within 400 feet of a lake based on the fact that this property is zoned commercial, the steep hill in the rear of the property prevents the structure from being moved further from the lake; the road is a natural separation between the property and the lake; there is a natural collection area for the storm water runoff and the size requirements for the storage sheds was intended primarily for residential buildings and areas. Kovala second.

Kessler stated that he would like to see slope stabilization and an approved storm water management plan by the Pelican River Watershed District is part of the motion.

Spaeth reworded his motion to read: approve a variance to construct storage buildings exceeding 2400 sq. ft. in size within 400 feet of a lake based on the fact that this property is zoned commercial, the steep hill in the rear of the property prevents the structure from being moved further from the lake; the road is a natural separation between the property and the lake; there is a natural collection area for the storm water runoff and the size requirements for the storage sheds was intended primarily for residential buildings and areas with the stipulations that the existing

slope be reshaped and vegetation reestablished and a storm water plan be approved by the Pelican River Watershed. Kovala second. All in favor. Motion carried. Variance approved.

**FOURTH ORDER OF BUSINESS:** Allen & Sherry Kraft. Request to construct a dwelling one hundred thirty-six (136) feet from the OHWM. Legal Description: 17.0627.000, Lot 6, Block 3, Blue Water Bay; Sec 19, Lake Eunice TWP. Project Location: Arrow Lake at 12944 East Arrow Lake Road.

The application was explained by Allen and Sherry Kraft. Before buying the property, they used the County website to find the measurements of the lot and felt they had plenty of room to build without a variance. After they purchased the property, they moved on a RV and installed a septic system to code. Now they wanted to move on a cabin and found that the measurements were to the water at the time of the survey and not the ordinary high water mark of the lake, thus leaving them short.

Spaeth felt that they could change their design and location of the structure to meet the setback. Kessler felt that they may gain a foot or two but not 14 feet. Kovala stated that this proposal mirrors the neighborhood and neighboring properties.

No one spoke in favor of the application. No one spoke in opposition to the application. Written correspondence was received from Milt Arneson, Jr in favor of the application and Jan Morin with a written statement. At this time, testimony was closed and further discussion was held.

**Motion:** Kessler made a motion to approve a variance to construct a dwelling one hundred thirty six (136) feet from the ordinary high water mark of the lake due to the fact that the one hundred fifty (150) foot setback cannot be met and that the proposal conforms to the neighborhood. Kovala second. Johnston stated that this is a modest cabin, not excessive in size. All in favor. Motion carried. Variance approved.

**FIFTH ORDER OF BUSINESS:** Richard North. Request to construct an addition onto a nonconforming structure that is sixty-one (61) feet from the OHWM. Legal Description: 17.0314.000, Pt Lots 2 & 3, Sec 27, Lake Eunice TWP. Project Location: Maud Lake at 11413 Lake Maud Drive.

Richard and Pat North explained the application to the Board. They would like to place an office in the house. By adding the office, they will be losing a bedroom. The addition would be for a bedroom and a bathroom. The original house is 61 feet from the OHW and the addition would be 75 feet from the OHW.

Kovala stated that it appears to be more than 25% impervious material on the lot. Spaeth stated that it appears that there is a discrepancy on the size of the lot. Brufloft questioned if the asphalt was included in their calculations. Brufloft questioned where the storm water went. North stated that some of it drains and pools between the Millers and the North property and some goes to the west side of the property, but never gets to the lake.

Further discussion was held regarding run off, impervious material and the lot size.

Speaking in regards to the application was Gary Heitkamp, questioning what was being used to determine the lot size; and Dan and Dave Olson, who read a prepared statement concerned about the run off onto their property. At this time, testimony was closed and further discussion was held.

Kovala questioned if there had been drainage issues between the properties in the past. The Olsons' stated that they have seen more run off in wetter years. North stated that there was always a natural drainage toward the Olson property.

Brufloft stated that there is a problem with the impervious coverage, whether there is too much impervious material or if the lot size is wrong. Johnston stated that a storm water management plan could remedy some of the issues by directing the water away from the Olson property. Johnston further stated that they may have to remove some concrete in order to get to 25%. Spaeth stated that the structure and addition are located outside the shore impact zone.

**Motion:** Kessler made a motion to approve a variance to construct an addition onto an existing house which is sixty-one (61) feet from the ordinary high water mark from the lake based on the fact that the structure is located outside the shore impact zone with the stipulation that the applicant must prove that they are not exceeding 25% impervious lot coverage and that all drainage must be kept on their property and away from the low area on the Olson property. Spaeth second.

Further discussion was held regarding what would be used for determination of the lot size, an old plat; old information in the file; a survey or legal description. Brufloft suggested that the applicant table the application to get a survey and drainage plan. Spaeth agreed. At this time, North asked to table his application. Kessler and Spaeth then withdrew their motions. Application tabled by the applicant.

**SIXTH ORDER OF BUSINESS: Informational Meeting.** The tentative date for the next Informational Meeting is scheduled for Thursday, November 5, 2015 at 7:00 am in the 3rd Floor Meeting Room of the Original Courthouse.

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

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Jim Brufloft, Chairman

ATTEST

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Eric Evenson Marden, Zoning Supervisor