

**Becker County Board of Adjustments  
November 10th, 2016**

**Present:** Chairman Jim Bruflodt, Harry Johnston, Lee Kessler, Jim Kovala, Steve Spaeth, Roger Boatman, Zoning Supervisor Dylan Ramstad Skoyles and E911/Zoning Technician Rachel Bartee.

Chairman Jim Bruflodt called the meeting to order at 7:00 p.m. Rachel Bartee took minutes. Intros were given.

Bruflodt explained the protocol of the meeting and Spaeth read the criteria for which a variance could be granted.

Kovala made a motion to approve the minutes for October 13<sup>th</sup>, 2016. Kessler seconded. The motion passed unanimously.

**FIRST ORDER OF BUSINESS:** Erwin Elker, 4025 2nd Street South, Moorhead, MN 56560  
**Application and Description of Project:** Request a Variance to construct a dwelling 54 feet from the ordinary high water mark of the lake due to shape of the property with peninsula issues. The required setback is 100 feet from the OHW of the lake. **Legal Description:** Tax ID number: 020238001 Little Cormorant Lake Audubon Township, PT GOVT LOTS 4 & 5: COMM NW COR GOVT LOT 5 TH S 1356.10' TO NWLY COR CORM SHORES, CONT S 276.69' TO SWLY COR PLAT, TH E 53.33', S 164.85' ...AKA TRACTS A & B; Section 33, TWP 139, Range 42. **Project Location:** The project is located on Maple Ridge Rd

Owner Erwin Elker explained the application to the Board. Tony England was also present he assisted with staking out the structure. Elker is requesting a Variance from the required 100' setback for a dwelling from Little Comrorant Lake to 54', due to the shape of the property with peninsula issues.

Elker asked where he could build on his property. Spaeth stated that he would have to prove practical difficulty. Elker stated that he purchased the land in the 1970's and that he did not have the ability to build until now. He believes that the setback requirements have changed since he purchased the property. Spaeth asked Elker what he would like to build. England stated that they would like to build a 32x32 slab home with a 10x32 porch. England asked if in the future they could also build a garage or eventually a larger home. Spaeth stated no, what they would request currently on the application at this time would be what is approved for that lot. Spaeth stated that all items need to be requested at this time. England stated that if they put in septic the mound would have to be in the ditch. Bruflodt asked what they would use for drinking water. England stated that they would use bottled water. Spaeth asked if the township would allow them to place a septic in the ditch. England stated per Renner Excavating that is where it would have to go. Boatman asked if they were adding a garage to the permit. England asked if they could

41 eventually. Brufloft asked if they wanted an attached or detached adding that either may require  
42 another variance. Spaeth asked Elker if he was planning on retiring there. Elker stated no, he was  
43 not. Spaeth noted that resale is lower for homes with no septic. Brufloft recommended to Elker  
44 to table this matter as he needs to reconsider what he wants to eventually have on the property.  
45 He stated that the board would prefer not to see him back in a year requesting additional  
46 structures but instead to request all items at one time.

47

48 No one spoke in favor of the application.

49

50 Richard Ellsworth, a Supervisor, of the Audubon Township Board spoke against the application.  
51 Ellsworth stated that in his opinion that this was not a buildable site. He stated that it is 40 feet  
52 short on either side from meeting setbacks. He added that any flooding would cause the septic to  
53 flow into the lake. He is against any building on the property.

54 There was no written correspondence either for or against the proposal. At this time, testimony  
55 was closed.

56

57 Chairman Brufloft opened the matter for disussion by the Board.

58

59 Kessler asked why it is so far to move the septic. Dylan stated that the department of health has  
60 restrictions on the placement of wells, not Zoning. Spaeth asked why it was so far back. England  
61 stated that Renner Boatman asked if they could put it closer as they are only looking at 32x32  
62 right now. Elker said yes. Spaeth stated that the garage placement concerned him, noting that  
63 maybe they would want to build in a different location or change the shape of the house to  
64 accommodate a garage. He stated that Elker could build himself out of a garage if he doesn't  
65 consider it at this time.

66

67 At this time, Elker asked to **table** his application in order to include all desired structures to the  
68 application.

69

70 **SECOND ORDER OF BUSINESS:** Bryan Green 1203 4th Avenue NE, Dilworth, MN 56554

71 **Application and Description of Project:** Request a Variance for an addition onto an existing  
72 dwelling that is located 55 feet from the ordinary high water mark of the lake on one side and 7  
73 feet from the deck, 15 feet from dwelling to crest of bluff on the other side due to setback issues  
74 of the existing dwelling. The required setback would either 100' from the OHW of the lake or  
75 the setback averaging requirement and/or 30 feet from the top of the bluff. **Legal Description:**  
76 Tax ID number: 180298000 Bijou lake Lake Park Township BIJOU HEIGHTS 139 43 Block  
77 002 LOTS 9 & 10 & S1/2 OF LOT 11; Section 29, TWP 139, Range 43. **Project Location:**  
78 17495 Bijou Circle, Lake Park MN

79

80 Owner Bryan Green explained the application to the Board. Green stated that he  
81 purchased the property in 1989 and built new around 94'-95'. His reason for requesting the  
82 variance is to accommodate to his plans to retire in the house in the next 2-3 years. Green is  
83 requesting a Variance to construct an addition onto the existing dwelling at the same setback as  
84 the existing cabin which is located 55 feet from the ordinary high water mark of the lake on one  
85 side and 7 feet from the deck, 15 feet from dwelling to crest of bluff on the other side due to  
86 setback issues of the existing dwelling. David Barron assisted him in staking out the property. He  
87 also stated that a septic company had been out to the property and stated there was room to place  
88 the appropriate septic system. He would like to begin construction next spring.

89 Boatman noted that the file showed there was a deck on the property and asked if there was a  
90 permit for it. Ramstad stated that indeed there was not a permit on file for the deck. Green stated  
91 that the deck has been present since 94'-95' when the house was built. Boatman stated the front 5  
92 feet of the deck are in the shore impact zone and advised that this will impact the decision. He  
93 asked Green if he would be willing to alter the deck, possibly cutting it in half to remove it from  
94 the shore impact zone. Green stated that yes he would be willing to remove the front of the deck.  
95 Kovala clarified that the shore impact zone for this lake is 50 feet back for the OHW. Brufloft  
96 reiterated that building in the shore impact zone is non-negotiable. Green stated that when they  
97 build it back in the 90's that it was approved and that all of the neighbors are ok with the  
98 distance. He stated that there is no other way to build it as his lot is too hilly. Kessler stated that  
99 it shows a new deck on the plan and asked if he was willing to remove it from the shore impact  
100 zone would he then choose to not have a deck? He added that after removing it from the shore  
101 impact zone he would only be left with a 5 foot deck which is not very useful. He asked green if  
102 he was to have a deck where would he place it. Green stated that he would choose not to have a  
103 deck. Ramstad further explained the shore impact zone ordinance, clarifying to Green that only  
104 the first 5 feet were in the shore impact zone.

105 Spaeth mentioned that moving the addition away from the water to accommodate for a  
106 deck was a possibility; however it may affect the plan. Green asked how far? Ramstad stated that  
107 he would have to move it an additional 8 feet. Green stated he would have to contact his  
108 contractor about this option. They would have to consider things such as how the roof line  
109 matches up and how the addition connects to the house. Johnston stated that is he moved the  
110 addition to the back of the house Green would have to move it 12 feet. Brufloft asked Green if  
111 he would like to table the matter until Green could discuss the placement of the deck with his  
112 contractor. Ramstad stated the matter could be tabled for Decembers meeting. Spaeth advised  
113 green that the board has never passed anything in the shore impact zone. Green asked where  
114 could a garage be located, and if they could go east. Spaeth stated that they could go east but  
115 they would lose their volleyball court. Green stated the kids are grown and they no longer need  
116 it. Green asked how far from the road would the garage have to be. Brufloft stated 20 feet,  
117 adding that Green has enough room to so.

118 At this time, Green requested to table the application until the next meeting. He will  
119 review the plan with his contractor to determine if there is room for a garage and a deck.

120 No one spoke in favor of the application. No one spoke against the application. There was no  
121 written correspondence either for or against the proposal.

122

123 **Third ORDER OF BUSINESS:** Brian Winczewski, 25232 County Highway 48, Osage, MN  
124 56570. **Application and Description:** Mr. Winczewski is appealing a decision that the Planning  
125 and Zoning Supervisor, Dylan Ramstad, made in an August letter notifying both the shooting  
126 club and Mr. Winczewski that the club was an existing Non-conforming use. **Legal Description:**  
127 Tax ID number: 210104101, Section 17 Township 140 Range 036 PT NE1/4 OF SE1/4 LYING  
128 S OF FOLL LINE: BEG 365' S OF NE COR TH SWLY 1674.69' TO SW COR OF NE1/4 OF  
129 SE1/4 REF: E 21.0012.000 **Project Location:** 25108 County Road 48 Osage MN

130

131 Winczewski explained his appeal to the board. Note that James Pricket, attorney for Winczewski,  
132 was present. Winczewski stated that the Osage Sportsmans Club cleared trees in the shore impact  
133 zone without any permits around 92-93'. He mentioned around 96' a house was hit and as a result the  
134 trees were cleared creating a new area. Winczewski requested that the trees need to be replaced.  
135 Brufloft asked if Winczewski meant the shoreland district not the shore impact zone.

136 Winczewski stated yes, the trees were in the shoreland district. Spaeth asked if the house was hit  
137 with pellets. Winczewski stated it was hit by a bullet not pellets. Winczewski said it was hit right  
138 after the house was completed sometime between 93-96'.

139

140 Spaeth asked Winczewski what he is objecting to. Winczewski stated that he is objecting the  
141 continuation of use of the land that was cleared for a trap and shooting range as it was put in after  
142 1971. He stated that they had to obtain a CUP in the shoreland district to convert forested land,  
143 which they should not have been able to clear. Spaeth stated that at this time it was still being  
144 used as the same non-conforming use. He then asked how far away it was from the shore.

145 Winczewski stated he was unsure. Ramstad noted that most of the property is within the  
146 shoreland district except for the NE corner.

147

148 Dylan provided testimony from. First he read a letter written by Patty Jonhson (currently  
149 Swenson) in 2005. The letter is in the file. Second he read a letter written by Scott Anderson, an  
150 attorney, written in regards to the CUP for the Sportsmans club. This letter is also in the file.  
151 Both letters note that the club is a non-conforming use. Anderson also states in his letter that  
152 there is nothing in the CUP stating that the club cannot expand. Ramstad summarized that the  
153 club is a non-conforming use and has been referred to as such through the years.

154 Spaeth states how does the shoreland district effect this. Ramstad stated that the land was  
155 forested and that to deforest it a CUP is required. Winczewski stated that they did not request a  
156 CUP at the time of deforesting. Ramstad stated that the Osage Sportsmans Club did request one  
157 on on Tuesday at the Planning Comission Meeting. The Planning Comission gave their  
158 recommendation to be granted to the county board.

159

160 Kessler requested verification that the Club did not have a CUP at this time. Ramstad stated that  
161 that was correct. It is pending County Board Approval. Winczewski stated that 20 letters were  
162 provided to the Planning Comission from various neighbors stating that sound comes through the  
163 trees since the mid 90's. He added that maybe if the Club had requested this CUP prior to

164 Tuesdays meeting it would have been denied. They were illegally cutting for 20 years. Spaeth  
165 stated why they needed a CUP to cut trees? Ramstad stated that ordinance requires it.  
166

167 No one spoke in favor of the administrative appeal. No one spoke against the administrative  
168 appeal. There was no written correspondence either for or against the appeal. At this time,  
169 testimony was closed.  
170

171 Brufloft opened the matter for discussion by the Board. Spaeth stated that he believes that the  
172 Club is a non-conforming use and asked if they were in violation of getting a CUP. Brufloft  
173 stated only if the County Board denies them. Spaeth confirmed that the Club did not have a  
174 CUP initially. Brufloft replied that a year ago the Club requested to expand and were approved  
175 by the Planning Commission and the County Board. Ramstad added that the Planning Commission  
176 approved the Club's request to expand, and then the County was sued and lost. Scott Anderson,  
177 attorney, stated that the Club did not need a CUP to expand just one to cut the trees. So now the  
178 Club is attempting to rectify the situation by requesting a CUP to cut the trees. Winczewski  
179 stated 20 years later. Johnston stated that it expanded the property line but it is still a shooting  
180 range. Expanding the CUP would mean that they are changing their use, example adding a car  
181 lot. Spaeth said that he agrees with Johnston, that the use is still the same. Spaeth added that  
182 Winczewski did not provide enough evidence that there has been a change of use. Boatman  
183 agreed that he too believes it's a non-conforming use. Kovala stated that's what happens when  
184 you live by a rifle range, they are loud. He too agreed that it is still a non-conforming use.  
185 Kessler also agreed, adding that it is a non-conforming use, it was a non-conforming use and its  
186 use has not changed.  
187

188 Brufloft opened the matter to the floor.  
189

190 **Motion:** Kessler made a motion to deny the appeal. Spaeth second. All were in favor. Per  
191 Brufloft the appeal was denied as the Club has been founded to be a non-conforming use and it  
192 continues to be a non-conforming use. He referenced MN Statute 394.36 and the letters in the file  
193 from Patty Johnson (Swenson) and Scott Anderson which also document the Club as a non-  
194 conforming use.  
195

196 **FOURTH ORDER OF BUSINESS: James Lanier, 19643 Tenada Avenue, Chugiak, AK**  
197 **99564. Application and Description of Project:** Request a Variance to construct a new  
198 (slightly larger) dwelling in the same location as the existing dwelling which was located 15 feet  
199 from the road right of way due to setback issues and a substandard lot of record. The request  
200 varies from a 45' setback from the road right of way for a non-riparian dwelling. **Legal**  
201 **Description:** Tax ID number: 191329000 Across rd from Lake Melissa FERN BEACH PARK  
202 LOT 4; Section 30, TWP 138, Range 41, Lake View Township. **Project Location:** 11666 Fern  
203 Beach Blvd., Detroit Lakes MN  
204

205 Owner James Lanier was not present. Christian Kiedroski, who is assisting with the project,  
206 spoke on behalf of Lanier, as Lanier resides in Alaska. Kiedroski explained the application to the  
207 Board. The request is to expand the current structure dimensions from 20x32 feet to 21x34 feet  
208 and to increase the height from 13 feet to 18 feet high. Kiedroski noted the request is asking for  
209 the structure to be 1 foot wider and 2 feet deeper. Kiedroski stated at the previous meeting the  
210 Board asked for a 20 foot area for parking were they had only accounted for 15 feet.

211  
212 Since the last meeting, Kiedroski did further research on the property lines. He stated that no pins  
213 were found and that he noticed the road has been moved, it curves into the property line. He said  
214 that from road center the setback is 19 feet from one side and 17 feet from the other. (this is in  
215 addition to the 15 feet). Kiedroski also mentioned that the forms are already in going over what  
216 is already there, noting that if they have to move it they would have to demo it.

217  
218 Brufloft stated that they had previously requested he be 20 feet from the edge not from the  
219 center. Kiedroski agreed that this was the case and that he measure them at 24 (15+19) feet and  
220 22 feet (15+17). Boatman asked if there were corner pins. Kiedroski stated they were not found.  
221 Boatman asked if the board should request a survey to be done, as he would like to know where  
222 the corner pins were. Boatman also stated he would like to see the structure further back.  
223 Kiedroski asked if they could have 19 feet. Spaeth asked how Kiedroski could confirm that they  
224 were actually at 19 feet. Boatman stated without a survey there was no way to verify were the  
225 center of the road is. Kiedroski stated that they would like to pour concrete soon. Boatman  
226 stated that the road is a "U" and loops around. Ramstad confirmed it was. Spaeth stated he did  
227 not see practical difficulty and he would like to say at 20 feet. Spaeth stated that they could build  
228 in the footprint without a variance. Kiedroski said the owner, Lanier will be willing to do that.

229  
230 No one spoke in favor of the application. No one spoke against the application.

231  
232 Written correspondence for the proposal was provided by two neighbors, read by Ramstad.

233  
234 There was no written correspondence provided against the proposal. At this time, testimony was  
235 closed.

236  
237 Brufloft opened the matter for discussion by the Board.

238  
239 Spaeth noted that that he agrees with Boatman. He agreed that they do not know where the center  
240 actually is as there is no survey or pins to clarify. Spaeth also stated there is no practical difficulty  
241 and that it does not meet their requirements. Spaeth stated that the lot may be suited the the  
242 structure it has, not one larger.

243  
244 **Motion:** Spaeth made a motion to deny the application. Boatman seconded. Johnston was also  
245 against the application. Kovala and Kessler were for the application.

246 Spaeth noted that it is ok to build in the existing foot print without a variance.

247  
248

249 **FIFTH ORDER OF BUSINESS:** Bruce and Debra Meachum, 2141 Rinden Road, Cottage  
250 Grove, WI 53527 **Project Location:** 30151 Lake 6 Road, Frazee MN **Application and**  
251 **Description of Project:** Request a Variance to construct a dwelling 20 feet from crest of bluff  
252 instead of 30 feet due to a steep slope on the other side of the building site. **Legal Description:**  
253 Tax ID number: 030323005 Lake Six, PT GOVT LOT 6: COMM S QTR COR SEC 32 TH W  
254 953.76' AL S LN,TH NW 727.02' TO LK SIX RD, SWLY AL RD 660' TO POB; CONT WLY  
255 AL RD 153.54', TH SLY 265.63',TH SW 181.87' TO LAKE SIX, SELY 100.66' & SLY 245'  
256 AL LK TO S LN SEC 32, E 350.41', TH NLY 599.23' TO POB AKA TRACT C; Section 32,  
257 TWP 138, Range 40, Burlington Township.

258  
259 Meachum nor Winter were present for this meeting. It was tabled for December.

260 **SIXTHORDER OF BUSINESS: Informational Meeting.** The next informational meeting is  
261 scheduled for Thursday, December 8th, 2016 at 7:00 am in the 3<sup>rd</sup> Floor Meeting Room of the  
262 Original Courthouse.

263  
264 Since there was no further business to come before the Board, Kovala made a motion to adjourn  
265 the meeting. Spaeth second. All in favor. Motion carried. Meeting adjourned.

266  
267 \_\_\_\_\_ ATTEST \_\_\_\_\_  
268 Jim Bruflo dt, Chairman Dylan Ramstad Skoyles,  
269 Planning and Zoning Supervisor

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271