

Becker County Board of Adjustments
May 9th, 2019

Present: Members: Chairman Jim Bruflodt, Lee Kessler, Jim Kovala, Roger Boatman, Harry Johnston, Delvaughn King, Planning and Zoning Administrator Kyle Vareberg and E911/Zoning Technician Rachel Bartee. Absent was Brad Bender.

Chairman Jim Bruflodt called the meeting to order at 7:00 p.m. E911/Zoning Technician Rachel Bartee recorded the minutes.

Introductions were given.

Kessler made a motion to approve the minutes for the January 24th, 2019 meeting. Johnston seconded. The motion passed unanimously. Motion carried.

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

OLD BUSINESS:

****SECOND ORDER OF BUSINESS: APPLICANT:** Larry and Barb Cooper 656 Heather Ave. Placentia, CA 92870 **Project Location:** 11755 Fern Beach Dr Detroit Lakes MN 56501 **TAX ID NUMBER: 19.1327.000; APPLICATION AND DESCRIPTION OF PROJECT:** Request a variance to construct a dwelling on a non-conforming lot, to be located at twenty-three (23) feet from the northern township road right of way and twenty (20) feet from the eastern township road right of way, deviating from the required setback of forty-five (45) feet from a township road for a dwelling on a non-riparian lot. Also, requesting a variance to be located at ten (10) feet from the rear lot line, deviating from the required setback of forty (40) feet from a rear lot line for a dwelling. Tabled from the **November 11th, 2018** Hearing.

Vareberg presented the application.

Jason Bristlin, Agent from The Real Estate Company, was present to represent the Coopers. Bristlin explained the revised application for a variance to construct a dwelling on a non-conforming lot, to be located at twenty-three (23) feet from the northern township road right of way and twenty (20) feet from the eastern township road right of way, deviating from the required setback of forty-five (45) feet from a township road for a dwelling on a non-riparian lot. Also, requesting a variance to be located at ten (10) feet from the rear lot line, deviating from the required setback of forty (40) feet from a rear lot line for a dwelling. Bristlin noted that the revised request is much smaller than November's request. Bristlin stated they are no longer asking to build over the existing porch. Bristlin added they are looking to build in the same footprint on all sides except for the extension to the rear property line, which will be seven (7) feet closer.

43
44 Brufloft confirmed that this was a 3-part variance, two ROW's and a rear property line setback.
45 Kessler replied yes, that the house was surrounded by roads on 3 sides. Boatman noted that one
46 was the old public access.

47
48 Boatman asked what the total square footage will be. Bristlin stated they will be building up,
49 adding a second story, for a total living area of 3,600 sq. ft. Boatman asked if they had
50 considered making the foot print any smaller. Bristlin replied the Coopers have grandkids they
51 would like to have room for when everyone comes to visit. Boatman stated the neighborhood is
52 very condensed, asking how long the family had owned the property. Bristlin replied 20-30
53 years.

54
55 There was written correspondence submitted, copies were presented to the Board Members:
56

57 1) I am a citizen and own two properties in Lakeview Township near this project which
58 will have a negative effect. A landlocked non-riparian property owner and lifetime
59 resident, I have traveled on the Northern and Eastern Township roadways to access
60 Lake Melissa in the proposed project's location. These public township roadways
61 abut and adjoin a public riparian lot through which the public can view and access
62 Lake Melissa. These public roadways and the required
63 setback of 45 feet currently serve the public's best interests by perpetually affording
64 the Public a view and safe
65 pedestrian and vehicular conveyance of ingress and egress to a public riparian lot.
66 The public's view and the full use of Lake Melissa from this public riparian lot
67 depend on the full use of the public's rights of way and required setbacks in this area.
68 The needs and welfare of the people clearly dictate that the proposed project's
69 location is unsuitable and not in
70 the public's best riparian interests or public land use interests. Current and future
71 public interests in this particular area far outweigh that of one non-riparian lot owner.
72 Diminishing the setbacks to public roadways in this area will diminish the public's
73 full use of this valuable public resource and not benefit the public as landowners.
74 Afford the Public full use of Lake Melissa; now and for future generations by
75 disapproving setback variances to the Northern and Eastern roadways that serve this
76 publicly significant area.
77 I will be in attendance for the Public hearing on 9 May and hope to voice these
78 concerns in person. Please contact me
79 by phone in the meantime for any questions or further comment.
80 Respectfully,
81 David Harer
82 320-292-4404

83
84 2) Board of Adjustments:
85
86 I've been coming to my Grandparent's cabin on Lake Melissa since I was born in
87 1964. My Grandmother passed the cabin down to my Mom and aunt and then last
88 year I purchased the cabin from my Mom and Aunt in August. I know Barb and Larry

89 have been fantastic neighbors over the years, we share a dock with them, and I look
90 forward too many decades of being at the lake. .

91
92 I would like to comment on the proposed plan, and this is in no way a reflection on
93 how I feel about Barb and Larry.

94
95 This plan requires variances in many directions including a variance which puts the
96 proposed 2-story home closer to the property line I share with the Coopers on the
97 South side of their lot, and the variance they request deviates 25 feet from the right of
98 way toward the lake. This is my objection. If their home is built that far over the
99 setback, toward the lake, I feel as though we are being encroached upon. This would
100 have the effect of pinning us into our lot, it would restrict sight lines. It would
101 dramatically change the way we enjoy our cabin and honestly, I don't feel the design
102 is in keeping with the rest of the small cottages which have been built among the 7
103 lots we share. Currently, there are 7 lots shared among 4 small cabins in the
104 immediate vicinity which have small footprints and not more than 2 bedrooms.
105 Building a 4-bedroom home on a lot and half requires a design which encroaches
106 upon our cabin and our lake experience. If this design suited the site, multiple
107 variances wouldn't be needed. The result is a large home on a lot designed for a small
108 cabin which encroaches upon the surrounding lot-- specifically, our lot and our cabin.
109 I realize I can't stop a 24-foot high,
110 2-story home being built 10 feet off the property line I share with the Coopers, but I
111 can politely ask the set back from the eastern road be observed and the request for the
112 variance denied.

113
114 If Barb and Larry need to build a 4-bedroom home on that small lot, please set it back
115 in the lot, observing the 45-foot set back toward the lake.

116
117
118 Respectfully,
119 Michael Johnson
120 11670 Fern Beach Boulevard.
121 Detroit Lakes, MN
122 612 281 0068
123

124 Neighbor, David Harer, owner of 19.0573.000, 11750 Fern Beach Dr, was present and spoke
125 against the application. Harer stated concerns about the public access, views to the lake, and
126 riparian rights no non-riparian property owners. Harer stated the project would prevent lighting,
127 sidewalks, places to clean boats and addressed the concern of ability of future enjoyment of the
128 lake due to the reduced setbacks requested. Johnston asked how wide the access was. Harer
129 replied at least 30 feet. Boatman stated that the requested house footprint was proposed to remain
130 the same distance as the current structure is from the ROW seatbacks, noting they are just
131 increasing in height by adding a second story. David stated there were issues with the Coopers
132 blocking the access with their dock every year. The Board identified this as a Township matter.
133 David was given a copy of the application/sketch of the proposed project to view. David stated
134 the proposed project did not appear to cause a negative impact to the access.

135

136 Board requested Vareberg to read the letter submitted from the Township regarding the Cooper's
137 tabled meeting from November 2018. Vareberg read the letter:

11/6/18

Attention Board of Adjustments

RE:

Larry and Barb Cooper
11755 Fern Beach Road
DL MN

Lakeview Board members received the information packet October 29th for Cooper variance request and the hearing is set for November 8th and our regular meeting to discuss this matter is not until the 12th of November.

This letter comes to you as only the opinion of one board member, the TWP Board can not meet as a group outside of a regular meeting due to "Open Meeting Laws".

My concerns are:

1. This property has twp road ROA on three sides.
2. Winter maintenance has been a struggle as the property sits presently.
3. The neighborhood trend is from seasonal to year around residents, 2001 (2), to presently 2018 (7).
4. Also the trend for this type of road is to rebuild and surface at some future date
5. The Boards road plans includes a major (\$200,000) resurfacing of Fern Beach Road in the next 2 years.
6. The 4' ROA set back is major concern.

Again I am speaking only as one Township Supervisor, I would like the Board of Adjustments to table the Coopers variance request, allowing Lakeview Township Board to discuss the matter at our meeting on Monday the 12th, 7:00 Town Hall. I invite any or all stake holders to attend.

Thank you for your consideration

Bill Jordan
Supervisor
Lakeview Township
218-234-9158

138
139

140 At this time, testimony was closed. Chairman Jim Brufloft opened the matter for disussion by
141 the Board.

142

143 Boatman stated the project should include a water retention plan. Brufloft stated the lot is non-
144 riparian and the roadway is most likely higher than the lot. Kessler stated he was in favor of the
145 project as they are removing buildings, the replacement structure would be an improvement, and
146 they are not moving any closer to the ROW. Kovala stated he is in favor of the proposed request.

147

148 **Motion: Kessler made a motion to** approve as proposed, to construct a dwelling on a non-
149 conforming lot, to be located at twenty-three (23) feet from the northern township road right of

150 way and twenty (20) feet from the eastern township road right of way, deviating from the
151 required setback of forty-five (45) feet from a township road for a dwelling on a non-riparian lot.
152 Also, approved as proposed, a variance to be located at ten (10) feet from the rear lot line,
153 deviating from the required setback of forty (40) feet from a rear lot line for a dwelling. All
154 requests due to setback issues. Application approved based on the fact that the request conforms
155 to the area and the structure is to be located in the same footprint on the northern and eastern
156 ROW setbacks and the request for the rear setback is minimal. Stipulations include the removal
157 of a 7x14, 8x10, and 128sq ft sheds and 224 sq. ft. patio and a water retention plan to be
158 submitted including gutters to the Zoning Office.

159

160 **Boatman second.** All in favor. **Motion carried.** Variance **approved.**

161

162 **NEW BUSINESS:**

163

164 **FIRST ORDER OF BUSINESS: APPLICANT:** Jennifer Williams Trust 6230 E. Huntress Dr.
165 Paradise Valley, AZ 85253 **Project Location:** 23619 Co Hwy 22, Detroit Lakes MN 56501
166 **TAX ID NUMBER:** 191456000; **APPLICATION AND DESCRIPTION OF PROJECT:**
167 Request a variance to construct a deck to be located at 37.5 feet from the Ordinary High Water
168 Mark (OHW), deviating from the required setback of 75 (seventy-five) feet from the OHW on a
169 General Development Lake due to setback issues.

170

171 Vareberg presented the application.

172

173 Laura Bowles from Hebron Brick Supply was present to represent the Williams Trust. Bowles
174 explained variance to construct a deck to be located at 37.5 feet from the Ordinary High-Water
175 Mark (OHW), deviating from the required setback of 75 (seventy-five) feet from the OHW.
176 Laura explained the current dwelling on the property is non-conforming, adding the seventy-five
177 (75) foot required setback would run through the middle of the current house. Bowles stated the
178 owners did not construct this dwelling, as they purchased it about a year ago. Bowles stated they
179 would like a low deck on the lakeside with 1-2 steps down to the lake. Bowles noted this request
180 would be in conformity with the rest of the neighborhood, as neighbors also have decks and
181 cabins as close to the lake.

182

183 Boatman noted concern that the house is ahead of the required setback and further concern that
184 the request is to be 16 feet closer to the water. Boatman added that he believes the requested
185 deck addition would be located in the shore impact zone. Boatman stated the 1,000 square foot
186 deck addition proposed is extensive and is more than a deck, it is an outdoor living area with a
187 stove. Bowles replied that the request was proposed to be out of the shore impact zone. Boatman
188 replied on the tour, the Board measured, and it was short a few feet. Bowles stated their intent
189 was to be out of the SIZ and they could move it back to meet that setback.

190

191 Bruflodt asked what the practical difficulty was. Bowles replied the non-conforming dwelling
192 does not allow them to meet the setback from the water, adding the owner would like to have a

193 space outside on the lakeside. Bowles noted she believed there was a deck here in the past, but
194 the previous owners had removed it and not replaced. Bowles stated the owners are currently
195 doing a remodel to update the property.

196
197 Kovala asked how she came up with 24.3% lot coverage. Kessler noted the Board would like to
198 see what structures have been removed to bring the coverage from 35.1% down to 24.3%. Laura
199 advised the reduction in impervious is due to the removal of the concrete sidewalks and new
200 landscaping plans, noting no impervious surface is being added to the project, only removal.
201 Bowles added wall at the shoreline was to be removed as well and they were working with Soil
202 and Water to restore the shoreline. Brufloodt stated the Board would like a detailed documentation
203 exhibiting the items removed that account for the change in impervious coverage and the plan
204 from Soil and Water explaining the restoration project. Kessler also advised the OHW to be re-
205 measured to ensure the project is out of the SIZ.

206
207 Bowles requested to table the application to remeasure and locate the OHW setback, submit a
208 copy of the Soil and Water shoreland restoration project, and complete a detailed calculation of
209 the change to the impervious surface coverage.

210
211 **THIRD ORDER OF BUSINESS: APPLICANT:** Troy and Jennifer Goering 21035 Co Hwy
212 22, Detroit Lakes, MN 56501 **Project Location:** 20584 Co Hwy 22, Detroit Lakes, MN 56501
213 **TAX ID NUMBER:** 170311000; **APPLICATION AND DESCRIPTION OF PROJECT:**
214 Request a variance to construct a bunkhouse, to be located at fifty (50) feet from the Ordinary
215 High Water (OHW) of Maud Lake, and twenty (20) feet from the Right of Way (ROW),
216 deviating from the required setback of one hundred (100) feet from the OHW on a Recreational
217 Development Lake and deviating from the required setback of forty-five (45) feet from the
218 ROW, for a structure on a county road, due to setback issues.

219
220 Vareberg presented the application.

221
222 Troy Goering was present. Goering explained the application to construct a bunkhouse, to be
223 located at fifty (50) feet from the Ordinary High Water (OHW) of Maud Lake, and twenty (20)
224 feet from the Right of Way (ROW).

225
226 Boatman stated when the Board toured the property the corner pins were not staked out,
227 therefore they were not able to make a determination that there was a 20 foot setback from the
228 ROW. Goering replied that it was 20 feet. Brufloodt explained that the pins need to be marked to
229 confirm the distance. Goering explained he hired Joyce Holm to assist him with the variance
230 process and she had advised him the fenceline was the property line, adding they have only
231 owned the property for 11 months.

232
233 Kessler noted the plat shows the north line is 70.17ft, adding that 20 feet from the ROW and 50ft
234 from the lake would add up to the 70 feet, not allowing for the 28ft from the bunkhouse. Goering

235 stated the building location is further west from the pins were there is more room, adding Holm
236 had measured it to be 88.17ft at the location of the proposed bunkhouse. Kessler stated there is
237 still 10 feet not accounted for with those measurements. Johnston agreed. Brufloft advised the
238 Board could deliberate on the proposal or the applicant could table the application to provide
239 further measurements.

240
241 Goering requested to table the application to gather further measurements and locate and mark
242 the property pins.

243
244 **FORTH ORDER OF BUSINESS:**

245
246 **APPLICANT:** Lake Region Mennonite Church 29654 Co Hwy 34, Callaway, MN 56521
247 **Project Location:** 35502 St. Hwy 34, Detroit Lakes MN 56501. **TAX ID NUMBER:**
248 157038000 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a variance to
249 construct an addition to a church, to be located at thirty-nine (39) feet from the side lot line,
250 deviating from the required setback of fifty (50) feet due to setback issues.

251
252 Vareberg presented the application.

253
254 Pastor Jesse Swiers and his wife Rhonda Swiers were present. Swiers explained the application
255 to construct an addition to a church, to be located at thirty-nine (39) feet from the side lot line.
256 Swiers explained the way the current structure sits on the property limits what direction they can
257 expand. Swiers stated if they expand the other way it would go over the top of the well, therefore
258 they would rather expand eastward toward the Birky residence.

259
260 Johnston stated to the east is the line of pine trees. Swiers replied the property had been
261 resurveyed and the boundary lines redone recently verifying the property line is the fence line,
262 adding this is where he marked the pins in the corners for the tour.

263
264 King stated he was in favor of the project, adding the proposal does not encroach on the cow
265 pasture.

266
267 Swiers stated they wanted the walkout to go in that direction, but they can change it to avoid the
268 foot traffic on that side if the Board would like. Swiers added that the church would like it in that
269 location to make it a handicap accessible building without having to add an elevator. Swiers
270 noted if they move it over the access would be near the graveyard.

271
272 No one spoke for or against the application. There was no written correspondence for or against
273 the application. At this time, testimony was closed. Chairman Jim Brufloft opened the matter
274 for disussion by the Board.

275 **Motion:** Johnston made a motion to **approve** the application as presented, to construct an
276 addition to a church, to be located at thirty-nine (39) feet from the side lot line, deviating from
277 the required setback of fifty (50) feet due to setback issues.

278

279 **King second.** All in favor. **Motion carried.** Variance **approved.**

280

281 **FIFTH ORDER OF BUSINESS:**

282

283 **APPLICANT:** Kirk & Karrie Zink 720 2nd St NW, Hillsboro, ND 58045 **Project Location:**
284 11020 W Lake Eunice Rd Detroit Lakes, MN 56501. **TAX ID NUMBER:** 170320001

285 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a variance to construct a
286 deck to be located at fifteen (15) feet from the top of a bluff, deviating from the required setback
287 of thirty (30) feet from the top of a bluff, due to setback & topography issues.

288

289 Vareberg presented the application.

290

291 Mark Weekley, Contractor from Lakes Area Landscaping was present representing the Zink's.
292 Weekley explained the request to construct a deck to be located at fifteen (15) feet from the top
293 of a bluff.

294

295 Brufloft stated the Board denied an after the fact variance for a deck on the same parcel 9 years
296 ago and made the owners remove the deck. Weekley replied that these are new owners, adding
297 there is a door on this side of the house they would like to make useable. Brufloft stated what
298 exists now is approved, however the rest was required to be removed, noting he is not in favor of
299 the proposed request. Weekley asked if it would be reconsidered if they made the deck smaller.

300

301 Brufloft stated the previous owner requested to be 7 feet back from the bluff, the new proposed
302 request is to be further at 15 feet, however I still feel the Board made the right decision 9 years
303 ago to deny the request. Kessler agreed with Brufloft's comments. Kovala stated it is not a good
304 place for a deck because of the bluff.

305

306 Johnston discussed offering the owners a 10 ft catwalk along the house, which would allow them
307 to be 20ft from the bluff, that would lead to the garage. Brufloft stated he was not in favor as this
308 was not offered to the previous owner. King agreed with Johnston's 10 ft catwalk along the
309 garage and house. Kessler asked if a 10ft deck do them any good, noting it could possibly be
310 wider at the garage. Brufloft stated the Board does not design it for them. Vareberg noted the
311 bluff impact zone is 20 ft, noting the 10 ft catwalk allowance would be similar to the one-time
312 deck addition allowed with in the ordinance for properties on a lake to have a 10ft deck if it is
313 out of the shore impact zone. Vareberg noted the Ordinance allowance is only for shore impact
314 zones, not bluff impact zones. Vareberg also noted the deck addition amendment did not exist
315 back in 2010 when the denial was originally made.

316

317 Boatman said he was not in favor of the request in light of the history as it would be a disservice
318 to the past owners and to what past Boards have done.

319
320 No one spoke for or against the application. There was no written correspondence for the
321 application. At this time, testimony was closed. Chairman Jim Bruflodt opened the matter for
322 disussion by the Board.

323
324 **Motion:** Kessler made a motion to **deny** the request as submitted to construct a deck, to be
325 located at fifteen (15) feet from the top of a bluff, deviating from the required setback of thirty
326 (30) feet from the top of a bluff, based on the fact the deck was removed as part of a previous
327 variance denial see document number 578993.

328
329 **Boatman second.** All in favor. **Motion carried.** Variance **denied.**

330
331 **SIXTH ORDER OF BUSINESS: Informational Meeting.** The next informational meeting is
332 scheduled for Thursday, June 6th, 2019 at 7:00 a.m. in the 3rd Floor Meeting Room of the
333 Original Courthouse.

334
335 As there was no further business to come before the Board, Kessler made a motion to adjourn the
336 meeting. Johnston seconded. All in favor. Motion carried. Meeting adjourned.

337
338 _____ ATTEST _____

339 Chairman Jim Bruflodt

Kyle Vareberg,
Planning and Zoning Administrator

340
341