

**BECKER COUNTY BOARD OF ADJUSTMENTS**  
**AUGUST 11, 2005**  
**7:00 P.M.**

Chairman Elletson called the meeting to order with members Harry Johnston, Al Chirpich, Jerry Schutz, Liz Huesman and Steve Spaeth present. Absent Jim Bruflo. Zoning Administrator Johnson recorded the minutes.

Chairman Elletson explained the hearing procedure. Harry Johnston read the six ordinance criteria that must be met for the Board of Adjustment to grant a variance to a property.

Chairman Elletson made one correction to the July 14, 2005 meeting 2<sup>nd</sup> Order of Business 4<sup>th</sup> line to replace location with located. Spaeth made a motion to approve with the correction. Chirpich second. All in favor. Motion carried.

Old Business:

FIRST ORDER OF BUSINESS: JAMES & BRENDA CRABILL

LEGAL LAND DESCRIPTION: Tax ID number: R.33.0304.000 Property is located on Toad Lake. Pines Lot 1; Section 4, TWP 139, Range 38, Toad Lake Township.

VARIANCE REQUEST to construct a garage 34 feet from the road, 6 feet from the side property line, remove old garage & replace with larger one, due to the substandard sized lot of record.

Chairman Elletson explained that the Applicant had tabled the application at last months meeting due to the fact that BOA did not intend to approve the variance as applied for. The applicant since that time had located his property corner pins. The Board revisited the property. Johnston explained the importance of locating property corner pins before construction. The applicants located their pins and the Board noted that the adjacent properties' structures are in the county road right-of-way. The Applicant's proposed structure would also be located within the road right-of-way if the property corner pins were not located. Spaeth stated the Board recommendation on-site with the applicant is a garage 10 feet from right-of-way and 5 feet from the property line. The Board reviewed the revised site plan.

Applicant stated that the old shed, garage and outhouse will be removed once the garage is constructed. The garage will be 24x28 with a 10X10 area on the southwest side of the property. Double garage doors on the roadside and a single door lakeside. Garage will have 8 foot sidewall.

Chairman Elletson stated that the Board will usually grant a variance of 20 feet from the right-of-way. This property is an exception because the county road is not in the center

of the right-of-way. A 10 foot setback from the right-of-way will move the proposed garage out of the right-of-way.

Chirpich stated that the proposed location is the most logical because the road is not in the center of the right-of-way. Chairman Elletson stated that the impervious surface with the garage is approximately 11.5%. Spaeth questioned if the location of the garage variance should include the distance from the mound system. Applicant stated they have consulted with zoning and that there is not a required setback from the toe of the mound. The Applicant will provide for a walkway between the mound and the garage.

Johnston stated he could not foresee the road being moved any time soon and that he agrees with the revised location of the garage.

MOTION: Johnston made a motion to approve the revised site plan with a 10 foot setback from the right-of-way and 5 feet from the property line with the stipulation that the old garage, outhouse and shed be removed after construction of the garage. Chirpich second. Motion carried.

#### SECOND ORDER OF BUSINESS: BRIAN COLE

LEGAL LAND DESCRIPTION: Tax ID number: R.16.0336.000 Property is located on Buffalo Lake. Lot 25 & 26 Chippewa Shores 1st Addition; Section 6, TWP 140, Range 40, Holmesville Township.

VARIANCE REQUEST to construct a dwelling 26 feet from the road, 65 feet from the ordinary high water mark of the lake, due to the topography.

Chairman Elletson read the motion of the approved variance from last month. The variance stated 70 feet from the ordinary high water mark and 10 feet from the road right-of-way. Elletson further stated that the Board was not concerned with the lake setback but the road setback and therefore did not measure this distance. The Zoning Inspector found the footings to be located 63 feet from the lake. The location of the footings is the exact location the Board intended to permit. Therefore, an amendment to the variance is necessary.

MOTION: Schutz made a motion to amend the variance to change the distance to the ordinary high water mark to 63 feet. Huesman second. All in favor. Motion Carried.

#### New Business:

#### FIRST ORDER OF BUSINESS: DAVID BERG

LEGAL LAND DESCRIPTION: Tax ID number: R.08.0803.000 Long Lake Unit 3 Clark Gable Cluster; Section 32, TWP 139, Range 41, Detroit Township.

VARIANCE REQUEST to construct an addition 32 feet from the ordinary high water mark of the lake, want more liveable space for this structure due to the expansion area within shoreland impact zone.

Applicant explained the request and the need for extra space in the cabin. Chairman Elletson explained that Clark Gable Cluster was a common interest community approved years ago and that the approved expansion areas for the units are located within the shore impact zone. Chirpich asked if the proposed addition would allow for any future expansions within the expansion area. Berg stated there will be no more area available in his unit expansion area for future additions.

MOTION: Chirpich made a motion to approve the addition 32 from the ordinary high water mark of the lake based on the fact that the approved common interest community plat allowed for the expansion areas. Spaeth second. All in favor. Motion carried.

#### SECOND ORDER OF BUSINESS: ROBERT SEITZ

LEGAL LAND DESCRIPTION: Tax ID number: R.08.0807.000 Long Lake Unit 7 Clark Gables Cluster; Section 32, TWP 139, Range 41, Detroit Township.

VARIANCE REQUEST to construct an addition 21 feet from the ordinary high water mark of the lake, addition is to the approved expansion area within shoreline impact zone.

The Applicant explained the variance request. The unit is quite small and Seitz would like to enlarge the living space of the unit. Chirpich asked for clarification on the proposed addition. Seitz stated there would be a 12 foot addition to the west and 5 feet on the south. The Board referenced the diagram showing the proposed expansion in red which is on file in the zoning office. Chirpich stated the proposed addition is within the approved plat expansion area and is grandfathered in.

MOTION: Chirpich made a motion to approve the addition 21 feet from the ordinary high water mark for a 12 foot addition to the west and 5 foot to the south based on the fact that the approved common interest community plat allowed for the expansion area. Huesman second. All in favor. Motion carried.

#### THIRD ORDER OF BUSINESS: CLEMENT FOX ESTATE

LEGAL LAND DESCRIPTION: Tax ID number: R.17.0184.000 Big Cormorant Lake Pt Lot 2 Beg 221' S of NW Cor Th SE 218' To Lk NW; Section 18, TWP 138, Range 42, Lake Eunice Township.

VARIANCE REQUEST to construct a storage shed 48 feet from the centerline of road and 70 feet from the ordinary high water mark of the lake due to the substandard sized lot of record.

The Applicant explained the variance request. They wanted the shed where it would be hidden from the road by the trees. They want to improve the property and make it more pleasing for the neighborhood. There are currently no storage facilities on the property. Chairman Elletson stated the Board measured 48 from centerline of the road but the site plan shows 40 feet. The applicant measured from the edge of the road.

Chairman Elletson asked if the applicant could turn the shed 90 degrees, increasing the road setback and maintaining the 70 lake setback. Spaeth stated this plan would gain 6 feet further from the road, 54 from the centerline and making it 20+feet from right-of-way. The applicant agreed with the revised shed location.

Neighboring property owner letter in support was read by Johnson.

MOTION: Schutz made a motion to approve the variance for a storage shed 70 feet from the ordinary high water mark and 54 feet from the centerline of the road based on the fact that the request is reasonable and there is no other storage facility on the property. Chirpich second. All in favor. Motion carried.

#### FOURTH ORDER OF BUSINESS: JOHN FRAUNDORFER

LEGAL LAND DESCRIPTION: Tax ID number: R.17.0531.000 Leif Lake Lot 35 Blackhawk Mtn Beach; Section 6, TWP 138, Range 42, Lake Eunice Township.

VARIANCE REQUEST to construct a deck 51 feet from the ordinary high water mark of the lake, due to the topography.

Applicant absent request moved to last order of business.

#### FIFTH ORDER OF BUSINESS: ELAINE STILKE

LEGAL LAND DESCRIPTION: Tax ID number: R.19.0474.000 Senica Lake Lot 4 Less SLY 300 ft; Section 24, TWP 138, Range 41, Lake View Township.

VARIANCE REQUEST to construct a garage 85 feet from the ordinary high water mark of the lake, replacement of old garage on original site due to the topography of parcel.

The applicant explained the variance request. The house was built in 1960. Stilke wants to replace the existing garage. Her son tore down the old garage and did not realize a permit was required to replace it in the same location. Chairman Elletson asked if the deck is part of the new construction and if so it should be included in the variance. Stilke stated that the deck, 7x10 would be new and that there is an existing door on house that goes out to the deck. Stilke stated that there is no place for garage meeting the setbacks because the land is surrounding by water on three sides.

Gail Hahn, Lake View Township Supervisor stated the Township has no objection to replacement of the garage.

Spaeth asked if the garage could be moved towards the road. Stilke stated that there are existing steps that go downstairs that would limit the garage from moving forward 2 feet. There is also a stairway to the basement that limits the placement of a new garage. Johnston stated that the request is reasonable based on the present entry into the house. Elletson suggested limiting the variance to the garage specifically.

MOTION: Johnston made a motion to approve the variance, for the garage and deck, as shown on site plan based on the fact that it allows reasonable use of the property and that the lake surrounds the property on three sides. Spaeth second. All in favor. Motion carried.

#### SIXTH ORDER OF BUSINESS: RICHARD PEDERSON

LEGAL LAND DESCRIPTION: Tax ID number: R.19.1802.000 Melissa Lake Lot 3 Block 7 Shoreham; Section 19, TWP 138, Range 41, Lake View Township.

VARIANCE REQUEST to construct a deck 20 feet from the ordinary high water mark of the lake, replacement of existing deck of same size due to the location of existing house.

The Applicant explained his request. He would like to replace the existing deck with one the same size. The existing is deteriorated. Chirpich suggested that the Applicant resurface with trex. Elletson stated that the existing deck is close to the lake, 20 feet from the water. Elletson further stated that using the string line, one corner of the deck extends into the string line setback. The Board received clarification on the definition of maintenance or structural alterations. Huesman suggested that the Applicant could replace the boards without permit but not replace the structural components of the deck, meaning the posts must remain. The Applicant was unsure how the contractor would work this. The Board stated concern with the existing deck location within the shore impact zone. The Board stated that if the cabin burns down the cabin would be required to move back. Chirpich offered information on the wrapping of the existing deck with trex material. Chirpich stated that no variance is required for normal maintenance. Chirpich suggested the Applicant could table the application to consult with his Contractor. Schutz restated that no structural portions of the deck could be replaced just wrapping of the deck is allowed under maintenance. Spaeth stated another option of a ground level deck.

Elletson advised the Applicant to maintain the existing deck because the Board will not grant a variance at the present location.

Gail Hahn, Lake View Twp agrees with the Board.

MOTION: Spaeth made a motion to deny the variance request based on the location of the deck within the shore impact zone and lack of hardship. Chirpich second. All in favor. Motion carried.

PREVIOUS FOURTH ORDER OF BUSINESS: JOHN FRAUNDORFER

LEGAL LAND DESCRIPTION: Tax ID number: R.17.0531.000 Leif Lake Lot 35 Blackhawk Mtn Beach; Section 6, TWP 138, Range 42, Lake Eunice Township.

VARIANCE REQUEST to construct a deck 51 feet from the ordinary high water mark of the lake, due to the topography.

The Applicant was absent from the hearing.

Elletson stated that the deck is within the stringline setback. He further stated that the Applicant is entitled to maintain the existing deck or replace using the nonconforming deck provisions listed in the ordinance (15% rule). Spaeth stated that he could not find a hardship that exists on the property to allow for a variance to build closer to the lake. Spaeth further stated the steep slope is not a hardship to add on to the deck based on reasonable use allowing the replacement of a deck without a variance using the 15% rule.

MOTION: Schutz made a motion to deny the variance based on the fact there is no hardship and that there is reasonable use of the property using the 15% rule. Spaeth second stating no hardship exists. All in favor. Motion carried.

SEVENTH ORDER OF BUSINESS: Informational Meeting.

The tentative date for the next information meeting is Thursday, September 8<sup>th</sup>, 2005 at 7:00 am at the Planning & Zoning Office.

Since there was no further business to come before the Board, Johnston made a motion to adjourn. Spaeth second. Motion carried.

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James Elletson, Chairman

ATTEST \_\_\_\_\_  
Patricia L. Johnson, Administrator