

Becker County Board of Adjustments
May 10th, 2007

Present: Members: Bill Sherlin, Al Chirpich, Jim Bruflodt, Eugene Pavelko, Steve Spaeth, Jerry Schutz and Clifford (Kip) Moore.

Zoning Staff: Administrator Patty Swenson and Julene Hodgson.

Chairman Jim Bruflodt called the meeting to order. Julene Hodgson took minutes.

Minute approval: The April minutes were discussed. Chirpich made a motion to approve the April 12th, 2007 minutes. Sherlin second. All in favor. Motion carried.

Chairman Bruflodt explained the protocol for the meeting. Spaeth read the criteria for granting or denying a variance.

FIRST ORDER OF BUSINESS: APPLICANT: DAVID LYSNE 470 F 23rd St E West Fargo, ND 58078 **PROJECT LOCATION:** Co Rd 117

LEGAL LAND DESCRIPTION: Tax ID number: R330100000 Toad Lake N 2 Ac of Lot 1 Section 09, TWP 139, Range 38 Toad Lake Township.

APPLICATION AND DESCRIPTION OF PROJECT:

Request a Variance to construct a 12x30 concrete RV site 40 feet from the County road (ROW) and 5 feet from the east property line due to the wetlands on the property. This would deviate from the setback of 45 feet from the County road (ROW) and 20 feet from a side property line or 40 feet from the rear property line.

Applicant David Lysne and Attorney Paul Jenson explained the application to the Board. The proposed owner submitted a new site plan to the Board with a smaller scaled version of what was previously proposed to allow more room for the setbacks. Mr. Jenson stated this is a lot of record, should be somehow buildable and this proposal meets the setbacks as close as possible. Mr. Jenson believes Mr. Lysne is asking for reasonable use given the revised plan submitted. The parcel has difficulties with the odd shape, wetlands and road issue. Mr. Jenson stated the area properties are of mostly residential use. Mr. Lysne commented on letters stating environmental concerns. The proposal has a lake setback of 120 ft and the lot coverage is a small amount proposed. He stated he understood concerns, but felt these to be irrelevant to the water quality. The parcel used to have cattle grazing that contaminated the wetland. Soil and water determined the wetland and high grounds and approved 400 sq ft of fill for the property. Mr. Lysne explained allowing the request and taking the cattle off the property will improve the wetland area and the contaminated runoff to the lake. Mr. Jenson stated Mr. Lysne has downsized the proposal as suggested and doesn't think any future expansion of the road through the property would be an issue if the slab is 40 ft from the road right of way. Mr. Lysne stated the RV slab would have very little negative impact and would be good use of the property for seasonal use only.

Lisa Piche spoke in favor of the application. Previous owner is from out of state and never came here to try to pursue a use for the property. It seems a reasonable request for the property. Soil and Water has been involved. Mr. Jay Melquist was present and spoke in opposition of the application. He has property to the south of this property. Mr. Melquist spoke of Environmental concerns. He believed there was a man-made trench dug to the lake 10 years ago and the slab would make the runoff worse to the lake through the wetland. Mr. Melquist stated himself and other neighbors had legitimate concerns including the road right of way as taxpayers. The County road could have future improvement with the road widening, blacktop added and this raises safety concerns. Mr. Melquist feels the setback requests are a significant difference from the Ordinance

setback regulations. Six letters in the file spoke in opposition of the new application. Swenson read the letters the Board did not receive earlier for all present. Letters read where submitted from Chairman Loren Jepson of Toad Lake Township, neighbor Clark Lee, President Fred Tuominen of Big Toad Lake Improvement Assoc, Joanne Finstad for Clara Finstad, Arlen Kangas and Jay and Jean Melquist. At this time, testimony was closed.

Further discussion was held. The Board discussed the new plan submitted. Spaeth asked questions pertaining to RV setbacks and yearly permits. Swenson explained an RV needs an approved yearly permit and does have to make the setbacks on a parcel, therefore the request for the Variance. Sherlin stated this lot of record is a 2 ½ acre, agricultural zoned and property with wetlands. Spaeth stated this property was created by original Government survey, if a denial of a Variance for use on the property, it would deem the property as an unbuildable site with no use. Brufloft stated the 1% of impervious on a 2 ½ acre parcel is not going to impact the lot because of size. Not enough quick runoff to cause a problem and removing the cattle would help. Even though the parcel has the area, the wetlands create the hardship for a variance to be granted. Schutz stated the tax amounts should be based on looking at each individual area and property for lakeshore. Spaeth reconfirmed the request is for a slab for an RV site only. If the owner was to propose anything in the future, the proposal would have to come back in front of the Board members.

MOTION: Schutz made a motion a Variance be approved for pervious pavers professionally installed in the 30 ft x 12 ft footprint and location per plan submitted due to the wetlands on the property. Any further development requests of the property will have to reapply through the public hearing process. Spaeth second. All in favor except Sherlin. Motion carried.

SECOND ORDER OF BUSINESS: APPLICANT: WILLIAM WILSON 1303 Elm Circle Fargo, ND 58102 **PROJECT LOCATION:** 13962 Deer Point Rd **LEGAL LAND DESCRIPTION:** Tax ID number: R170979114 Cormorant Lake Maple Ridge 1st Addition Lot 4 Section 07, TWP 138, Range 42 Lake Eunice Township **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a Water Oriented Structure 50 feet from the side property line which deviates from the placement within the center twenty-five feet of the lot as measured along the setback from the Ordinary High Water Mark due to the topography of the parcel.

William and Rhonda Wilson explained the application to the Board. The request is for storage by the lakeshore because of the steep slope. The Cormorant Lake Watershed has visited the property and stated the proposed location would cause less damage to the bank than if they constructed it in the area outlined by Section 12 of the Ordinance. The bank is curved and more vertical so they would not dig into the bank as much. A flat roof is planned for the structure with rail and it is proposed to be up on poles and stilts. Schutz stated there would be a drainage issue and the owners would have to minimize the runoff from the structure to the lake. Mr. Wilson explained the stormwater management plan they are proposing to control the water issues.

No one spoke in favor of the application. No one spoke against the application. Swenson received a phone call from the Cormorant Lake Watershed in favor of the application. There was a letter of correspondence in file from neighbor Wade Wilson in favor of the application. At this time testimony was closed.

Further discussion was held. Spaeth spoke of the lot being a standard sized parcel that meets all the guidelines of being a conforming parcel. Spaeth voiced the concern of the structure causing

damage to the bank. Schutz voiced again the concern of water runoff. He stated requesting a stormwater plan with natural vegetation, possible berm and infiltration basin would be a must for the project. Schutz stated the property can be used and enjoyed without the approval of the variance and would not cause a hardship to the owners without this structure. Sherlin stated it as being a conforming parcel that is undeveloped and it would create a non-conforming parcel with request. He stated the property will have reasonable use. Moore stated the hardship of the property is the steep slope. Schutz stated the Watersheds recommendations where so the bluff on the property does not become disturbed. Swenson read Section 12 to the Board. The owner has the criteria to apply for a water oriented accessory structure. If the owner was approved to build within the center 25 ft area of the lot it would encroach the bluff area. The variance was requested to protect the bluff impact area. Spaeth stated that option B requested would be a better site area for the structure proposed. Option A could have been completed without a variance request.

MOTION: Moore made the motion a Variance be approved to construct a water oriented accessory structure with size and location in Option B plan submitted due to the topography of the parcel. The structure is to be built as proposed on stilts with stormwater management plan in place. Spaeth second. All in favor except Sherlin. Motion carried.

THIRD ORDER OF BUSINESS: APPLICANT: JOHN MOBERG 28601 460th Ave NW Alvarado, MN 56710 **PROJECT LOCATION:** 37578 Tulaby Lake Dr Waubun, MN 56589 **LEGAL LAND DESCRIPTION:** Tax ID number: R090566000 Tulaby Lake Lot 8 Peaceful Bay Section 03, TWP 142, Range 39 Eagle View Township **APPLICATION AND DESCRIPTION OF PROJECT:** Request an After the fact Variance for structural repairs on an existing cabin located 38 feet from the ordinary high water mark of the lake and ahead of “stringline” due to the substandard sized lot of record.

Applicant John and Mary Moberg explained the application to the Board. He explained he was doing maintenance repair to the existing structure. But, because of rotten wood in the walls, he also replaced studs and wall areas. He did not realize that would constitute structural work and would need an approved site permit before doing so. Moberg and Board discussed the runoff from the roof and the impervious patio. Swenson stated no permit was required for the pavers at the time they were installed. Moberg proposed water management ideas on the property to reduce runoff with possible french drain or an infiltration system. Spaeth stated the patio could be changed to pervious pavers instead of impervious. The idea of building up the natural ice berm would help to reduce the natural flow to that area of the parcel.

No one spoke in favor of the application. No one spoke against the application. There were three letters of correspondence in the file in favor of the application. Swenson read the letters from Residents of Tulaby Lake, neighbors Scott and Karen Skauge and the Eagle View Township. At this time, testimony was closed.

Further discussion was held. Schutz noted how the natural berm has diminished. The owner could build it back up and form a side berm or install a raingarden.

MOTION: Schutz made the motion a Variance be approved to allow the existing 30 x 36 structure to remain with structural repairs 38 feet from the ordinary high water mark due to a substandard sized lot of record. Sherlin second. All in favor. Motion Carried.

FOURTH ORDER OF BUSINESS: APPLICANT: PHILIP HANSEN 24921 N Melissa Dr Detroit Lakes, MN 56501 **PROJECT LOCATION:** 24921 N Melissa Dr **LEGAL LAND DESCRIPTION:** Tax ID number: R191210000 Melissa Lot 1, Eddy Lodge and Auditor’s Lot 28

Section 20, TWP 138, Range 41 Lake View Township **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to change the roofline by adding a dormer to the existing roof of a dwelling. The existing dwelling is 2 feet from the side property line, which deviates from the 10% side property line setback of 10 feet due to a substandard sized lot of record.

Applicant Philip and Dianne Hansen explained application to the Board. The owners are requesting the dormer addition to gain more living space upstairs. The existing house is located too close to the side property line. They did foundation replacement in 2001, but placed the structure in the same location and footprint. Sherlin questioned why the structure was not moved over at that time. Spaeth discussed natural berm on the property. Board asked where the lot was for coverage, the owners are currently at 23% lot coverage. This addition would not add to current impervious. Schutz stated because of the roof change with the dormer proposed, the owner would have to gutter that area differently than what is currently there. The owner stated there is a french drain present on the property between the house and the road.

No one spoke in favor of the application. No one spoke against the application. There where no written correspondence in the file. At this time testimony was closed.

Further discussion was held by the Board. Spaeth expressed the biggest issue being the runoff. If approved, the water containment should be a part of the Variance. Brufloodt stated it is an issue because of existing structure being located so close to the side property line.

MOTION: Schutz made the motion a Variance be approved to add a dormer onto the existing roof of a dwelling located 2 feet from the side property line due to a substandard sized lot of record. The owner is to implement stormwater management. Sherlin second. All in favor. Motion carried.

FIFTH ORDER OF BUSINESS: APPLICANT: JAMES & ALICE LARSON: 12245 Fern Beach Dr Detroit Lakes, MN 56501 **PROJECT LOCATION:** 12245 Fern Beach Dr **LEGAL LAND DESCRIPTION:** Tax ID number: R190828000 Melissa Lake Beg at SW Corner Lot 2 TH SE 255 Ft to SE Cor TH NE 20 Ft NW to Ln & SW 30 Ft to Beg and N 1/2 of Lot 3 Birch Hill Section 19, TWP 138, Range 41 Lake View Township **APPLICATION AND DESCRIPTION OF PROJECT:** Request an After the fact Variance for a 560 sq ft relocated garage to remain 18.5 feet from the Road Right Of Way of a township road, and a 336 sq ft relocated garage to remain 13 feet from the Road Right Of Way of a township road due to the topography of the parcel.

Applicant Alice Larson explained application to the Board. Larson needed a second garage. A Variance was granted in 2002 for a proposed larger garage to be located 5 feet from the side property line and 20 ft from the road right of way. There was an existing single garage located on the property. Larson relocated the single garage to a different location on the property and constructed the new larger garage in the previous site where the small garage was located. Larson placed the structures in the areas thinking they made the proper setbacks from the road right of way and side property lines. The garages are located on both sides of the current septic system.

No one spoke in favor of the application. Lakeview Township Supervisor Gail Hahn spoke against the application. Structures located very close to Township road. Hahn originally thought only one garage would remain on property. There was a letter of correspondence of support from neighbor John Ista in the file. Swenson read the letter to the Board. At this time testimony was closed.

Further discussion was held. Spaeth noted the Board works hard to keep accessory structures to be only 20 ft from the Road right of way. People tend to park in the Road right of way. The large garage was measured at 18 ½ ft to closest point, the small garage was at 13 ½ ft from Right of way. Spaeth stated the small garage could be moved to make the 20 ft setback. Chirpich suggested boarding up the doors on roadside and plant shrubs to avoid cars parking in front of the small garage. There is heavy traffic in the area. Sherlin questioned why this has gone on for so long, making the small garage unusable from the road does not answer for why this is just coming to the Board now.

Spaeth stated there is adequate room to move the small garage back further into the property. This would not harm the septic located between the structures. The loss of the trees would not be a hardship. The lots water flow is natural and takes care of itself as far as water issues. Sherlin asked Swenson if the small shed was approved at current location. Swenson stated the smaller garage was not on an approved permit for relocating the smaller garage in its current location. Schutz agreed with Spaeth the smaller garage could be relocated back further on the property to make the 20 ft setback. Chirpich stated the denial of the variance would be the denial of both structures to remain in their current location.

MOTION: Spaeth made the motion a Variance be approved for the 560 sq ft existing garage to remain 18 ½ ft from the Road right away with maintenance only to the structure. The 336 sq ft garage is to be removed or relocated on the property to make the 20 ft setback from the closest point to the Road right of way. Chirpich second. All in favor except Sherlin. Motion carried.

Informational Meeting. The next informational meeting is scheduled for Thursday, June 7, 2007 at 7:00 a.m. at the Planning & Zoning Office.

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

Jim Brufloft, Chairman

ATTEST

Patricia Johnson, Zoning Administrator