

Becker County Board of Adjustments
August 14, 2008

Present: Members: Jerry Schutz, Bill Sherlin, Al Chirpich, and Clifford (Kip) Moore.
Zoning Staff: Administrator Patty Swenson and Julene Hodgson.

Acting Chairman Al Chirpich called the meeting to order. Julene Hodgson took minutes.

Minute approval: The July minutes were discussed. Moore made the motion to approve the minutes from the July 10th, 2008 meeting. Sherlin second. All in favor. Motion carried.

Acting Chairman Chirpich explained the protocol for the meeting. Sherlin read the criteria for granting or denying a variance.

OLD BUSINESS:

TABLED APPLICANT Barbie Cooper 656 Heather Placentia, CA 92870 **Project Location:** 11755 Fern Beach Detroit Lakes, MN 56501
LEGAL LAND DESCRIPTION: Tax ID number: R191327000 Lake Melissa Fern Beach Park Lot 1 & N 25' of Lot 2 Section 30, TWP 138, Range 41 Lake View Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request an after the fact Variance to construct a screened patio/porch area on an existing slab located 9 feet from the road right of way of a township road due to a substandard sized lot of record. This deviates from a dwelling addition to be located 45 feet from the township road right of way.

Barbie Cooper explained at the request of the Board, she located the property pins and the measurement to the closest point of the road right of way would be approximately 9 feet.

No one spoke in favor of the application. No one spoke against the application. There were letters of correspondence in the file in favor of the application read previously. At this time, testimony was closed.

Further discussion was held by the Board. Acting Chairman Chirpich stated the owner has fulfilled the Boards request to assure the approval of the screened porch would not encroach into the road right of way.

MOTION: Sherlin made the motion for a Variance to be granted for a 14 x 16 porch addition located 9 feet from the North road right of way due to the hardship of a substandard lot of record. The addition is to remain a screened in porch only and cannot be enclosed or used as living space for the dwelling. Schutz second. All in favor. Motion carried.

NEW BUSINESS:

1. **APPLICANT:** Linda Osland 5701 Vinehill Rd Minnetonka, MN 55345
Project Location: 31601 377th St Ogema, MN 55345 **LEGAL LAND**
DESCRIPTION: Tax ID number: R200276000 White Earth Lake Pt Lot 2 Beg 342.5 W of NW Cor Section 15, TWP 142, Range 40 Maple Grove Township.
APPLICATION AND DESCRIPTION OF PROJECT: Request an after the fact Variance for a deck to remain located at 45 feet from the ordinary high water mark of the lake, due to a substandard size lot of record. This deviates from a structural setback of 100 feet from the ordinary high water mark of the lake.

Linda Osland explained the application to the Board. A letter was read by applicant discussing the property, the previous ordinance regulations, the ordinary high water mark of the lake and the after the fact deck request. The letter/statement is entered in the property file. Linda stated the deck was constructed July 2007 without an approved site permit. The deck addition/expansion is closer to the lake than the previous Variance approved for a 60 feet setback from the OHW.

No one spoke in favor of the application. No one spoke against the application. There were letters of correspondence in the file in favor of the application previously sent to the Board from Mr. Clark, Karen Kalin-Horge, Butch and Eileen Hastad, and Duane Bellefeuille. Swenson read a letter to the Board from Betty Johnson who was in favor of the application. At this time, testimony was closed.

Further discussion was held by the Board. Swenson stated the DNR visited the property and established the ordinary high water mark of the lake at the shoreline of the property. A survey on file from 10/04/95 is to scale and indicated the dwelling to be approximately 59-60 feet from the ordinary high water mark. The DNR measurement to the existing structure 07/08/08 was approximately the same measurement as the permit allowed in 1981 and the survey shows in 1995. The after the fact deck addition measures approximately 48 feet from the OHW. The 15% rule Osland referred to was taken out of the Ordinance before the owners made application for the Variance and site permit in June. The previous Variance from 1980 would be most restrictive. Swenson stated if the Board is looking at allowing the deck, there should be specific language as to what is going to be allowed, stipulations can be placed on the property, and realize the ramifications that could occur by allowing the variance. The Board asked about the other violation on the property; the sheds located in the shore impact zone area. Hodgson stated the brown shed was to be removed from the property, the owners were going to replace it with a sauna shed, both remain located in the shore impact area. File information shows the owners brought the brown shed onto the property on or about 1997. There is not an approved permit on file. The owners brought a sauna shed onto the property fall of 2007 without an approved permit and placed it alongside the brown shed at the shoreline. Sherlin stated he is clear on where the original covered porch and deck were located versus what is on the property now with the covered porch, deck and new deck addition/expansion constructed even closer to the lake.

He stated by approving this, they are approving another Variance against the original Variance. He is not sure that in light of the current violations that have not been corrected on the property that any mitigation or conditions placed on the property would be complied with.

MOTION: Schutz made the motion for a Variance to be granted for the pervious deck to remain as it exists today from the lake elevation of White Earth Lake due to a hardship of a substandard lot of record and setback issues. The deck is to remain constructed primarily of wood, and can never be roofed, screened or enclosed. The existing dwelling is to be guttered with the spouts directed into infiltration areas away from the lake for stormwater management. The previous non-permitted brown shed is to be removed from the property and the sauna shed is to be relocated back to 50 feet out of the shore impact area. The stipulations are to be met within 30 days of the Variance findings. Moore second. All in favor. Motion carried.

2. **APPLICANT:** James Shaw 11492 Ravenswood Beach Rd Detroit Lakes, MN 56501 **Project Location:** 11468 Co Hwy 17 Detroit Lakes, MN 56501
LEGAL LAND DESCRIPTION: Tax ID number: R190533000 Melissa Lake PT Govt Lots 2 and 3 Beg 288.05 NW and 69.21 NE of most Ely cor lot 2 Charmony Beach...Section 28, TWP 138, Range 41 Lake View Township. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Variance to construct a 50 x 360 storage shed (to house individual storage units for the principal use of the property) 31 feet from the township road right of way due to an undemonstrated hardship. This deviates from a 45 feet setback for a primary structure from the township road right of way.

Jim Shaw explained the application to the Board. Shaw is proposing Condo storage units and will be going to the Planning Commission to ask for a Conditional Use Permit. The storage unit proposed will not meet the road setback in one corner of the property. The property has roadway setbacks on all sides and a wetland issue. The existing road is on the outside of the road corridor area and the proposed structure would be 84 feet from the centerline. Chirpich stated another plan previously proposed on the property showed two structures that were placed differently on the property and would make all setbacks. Schutz asked if Shaw could propose the structure to be back further into the property. Shaw stated he would then have to remove the existing "old store" structure, and he did not want to remove the structure for historical reasons if he did not have to. Shaw stated he thought one long structure would look more pleasing on the property and the driveway accessibility would be laid out better with the one structure. Shaw thought the property would call for a 20 feet setback from the road right of way, but the storage unit will be the primary use of the property requiring a 45 feet setback. The plan before the Board is utilizing doors and driveway accessibility into the structure to the fullest measure and with a balanced look. Shaw asked the Board for the time limit information pertaining to a Variance going with a property because he might suggest a different plan depending on how many units the Planning Commission will allow. Swenson stated the Board is acting on the request proposed to vary away from the road right of way and be located 31 feet in the one corner of the property. Shaw stated he should table the application until he knows the results of the Planning Commission hearing. He then can better plan what the structure will be like, and where it will be placed. It may

not require the Variance if there are less units approved than proposed. Sherlin asked Swenson if the Planning Commission Board will look at only the property use or if they will also look at the structure and setbacks Shaw is asking to vary away from. Swenson stated if there is a Variance request on the property, the Variance should be completed before the use request on the property. Gail Hahn speaking for Lakeview Township stated their concern is that if the Variance be granted, it is granted with the wording of the 31' approval in the one corner of the property only as proposed- the rest of the property to make the 45' setback. Jon Bromander, an neighbor of the applicant, spoke in favor of the application. He stated he has seen previous projects Shaw has completed, and when the projects are completed, they look very nice and professional. He also stated he would want the wording on the Variance to reflect the 31' setback would be only for the one corner, not the entire property. **At this time, the property owner asked to table the Variance application until a later date to bring back the proposal information and measurements to the Board.**

Informational Meeting. The next informational meeting is scheduled for Thursday, September 4th, 2008 at 7:00 a.m. at the Planning & Zoning Office.

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

Al Chirpich,
Acting Chairman

ATTEST

Patricia Swenson, Zoning Administrator