

**Becker County Board of Adjustments
September 8, 2011**

Present: Members Al Chirpich, Kip Moore, Lee Kessler, Bill Sherlin, Jerry Schutz, Steve Spaeth, and Jim Brufloft, and Zoning Staff Debi Moltzan.

Chairman Brufloft called the meeting to order at 7:00 p.m. Debi Moltzan took the minutes.

Chirpich made a motion to approve the minutes from the August 2011 meeting. Sherlin second. All in favor. Motion carried.

Chairman Brufloft explained the protocol for the meeting. Vice Chairman Spaeth read the criteria, which have to be met in order to grant a variance.

FIRST ORDER OF BUSINESS: Curly's on Cotton Lake, Rich D Curley Jr. Request a variance to construct an addition onto an existing nonconforming structure that is located up to the ROW & to exceed the allowable 30% lot coverage. The addition is proposed at 90 ft. from the OHW, for the property described as: Tax ID number: 100189000, PT LOTS 3 & 4; BEG 1516.03' SE OF N QTR COR ON CTR LN OF CSAH #29, TH SWLY AL CTR HWY 274.04', NW 237.26' TO WTRS EDGE, NELY AL LK 276.39' & SE 260.67' TO POB. Sec 12 Twp 139 Range 040, Erie Township. The property is located on Cotton Lake at 20762 Co Hwy 29.

Mike Hough explained the application. Hough stated that the proposed addition had been permitted in 1999, but only the foundation was constructed. With the changes in regulations, a variance would be required in order to complete the addition. The structure is in need of a new roof.

Kessler questioned if the area of the proposed addition is already impervious. Hough stated it was due to the fact that the foundation is already there. Chirpich questioned the setback from the lake. Hough stated that his measurement was on the conservative side. Spaeth questioned what the practical difficulty was. Hough stated that the building needs renovation in order to stay in business. Schutz questioned if the retention pond is to be added. Hough stated that it would be added for mitigation. Sherlin stated that the lot is a standard size lot; therefore, mitigation is not required. Sherlin questioned if the applicant is willing to remove some impervious material in order to reduce the percentage to 30%. Hough stated that the foundation was already there, so they would not be adding any more impervious.

Discussion was held regarding information obtained from the County's records indicating that the lot is larger than the applicant disclosed. This would place the impervious coverage between 28% and 29%, so a variance would not be required to exceed lot coverage. Moore questioned how many more seats would be added to the business. Hough stated that no more seats would be added, because this area is already being utilized as outdoor seating. Brufloft questioned if they would be willing to remove the structures in the shore impact zone. Hough stated that those structures are being utilized. Discussion was held regarding parking in the road right-of-way. Hough showed a permit from the Becker County Highway Department for curb and gutter

improvements in the right-of-way and stated that the Highway Department has not had any problems with the current parking.

No one spoke in favor of the application. No one spoke against the application. There was no written correspondence either for or against the application. At this time, testimony was closed and further discussion was held.

Discussion included the additional information provided concerning lot coverage, condition of the current structure, parking area, structures in the shore impact zone and lake setback.

Motion: Spaeth made a motion to approve the addition onto the nonconforming structure ninety (90) feet from the ordinary high water mark of the lake with the stipulations that lot coverage cannot exceed 30% and that all water run off be diverted to a holding pond. Schutz second.

Further discussion was held. Kessler questioned if a parking plan should be made a stipulation. Spaeth stated that the County would regulate the parking. Moore stated he could not support the motion without a parking plan. Chirpich suggested that the motion be amended to include a parking plan. Sherlin stated that more parking would increase the lot coverage. Spaeth stated that the motion states 'not to exceed 30%'.

Vote on the motion: Spaeth and Schutz in favor of the motion. Kessler, Sherlin, Moore and Chirpich against the motion. Motion fails.

Further discussion was held regarding the parking, setbacks, and the structures in the shore impact zone, the fact that the addition is not changing the existing footprint of the structure.

Second Motion: Schutz made a motion to approve the variance as requested with the stipulation that the two (2) buildings and concrete slab located in the shore impact zone are removed and a parking plan be submitted to and approved by the Zoning Office. Kessler second.

Spaeth questioned the motion, pointing out that 'as requested' would allow 33% lot coverage. Chirpich questioned that lake setback request.

Schutz amended his motion to say " approve a variance to construct an addition onto a nonconforming structure 90 feet from the ordinary high water mark of the lake with the stipulation that lot coverage is not to exceed 30%, that the two (2) buildings and concrete slab located in the shore impact zone be removed and a parking plan be submitted to and approved by the Zoning Office based on the fact that the criteria for granting a variance has been met. Kessler second. All in favor. Motion carried.

SECOND ORDER OF BUSINESS: Richard and Pamela Hanson. Request a variance to construct an addition onto the dwelling 85 ft. from OHW and construct a deck 56' from the OHW on the property described as: Tax ID number: 330032000, Big Toad Lake: PT GOVT LOTS 5,6, & 7: COMM AT NWLY COR LOT 18 THE PINES 3RD ADDN TH SW 362.50'TO POB: TH S 250.53' TO BIG TOAD LK, TH 60' AL LK, TH N 251', TH ELY 60' TO POB, Sec

04, TWP 139, Range 38, Toad Lake Township. The property is located on Big Toad Lake at 43229 218th Street.

Richard and Pamela Hanson explained the application to the Board. The addition would be placed on the roadside of the cabin and the existing 8 ft by 10 ft deck would be replaced with a 10 ft by 10 ft deck, a lakeside 12 ft by 12 ft deck would be constructed and a double garage would be constructed across the road.

Discussion was held regarding the road setback, lake setback, existing shed and mitigation. Spaeth stated that this house cannot be moved closer to the lake or to the road. The proposed deck would be out of the shore impact zone. Sherlin questioned why there was no request for a variance for the garage. Moltzan explained that the location of the garage meets the setback requirements and does not require a variance.

No one spoke in favor of the application. No one spoke against the application. There was no written correspondence either for or against the application. At this time, testimony was closed and further discussion was held.

Discussion included lake setback, road setback, lot coverage and removal of the shed by the lake. Schutz stated that he did not have a problem with the roadside addition but did have a problem with the lakeside deck. Sherlin agreed and stated that they should not be allowed to go closer to the lake than existing. Discussion also included the fact that ingress and egress from the lakeside door could be granted with a 4 ft by 6 ft landing or a trade off could be done by removing the shed and allowing the deck. Further discussion was held regarding the removal of the shed or relocation of the shed. Relocation of the shed would also require a variance.

Motion: Sherlin made a motion to approve a variance to allow an addition onto a nonconforming structure to be eighty-five (85) feet from the ordinary high water mark of the lake. Chirpich second.

Spaeth stated that the request for the deck needed to be acted upon. Discussion was held as to whether there should be one or two motions.

Sherlin amended his motion to say "approve a variance to allow an addition onto the nonconforming structure eighty-five (85) feet from the ordinary high water mark of the lake and to deny the request to construct a lakeside deck fifty-six (56) feet from the ordinary high water mark of the lake based on the fact that the criteria for granting a roadside addition has been met, but the criteria for the lakeside deck were not met. Chirpich second. All in favor. Motion carried.

THIRD ORDER OF BUSINESS: Mark and Maria Voigt. Request a variance to construct a new dwelling with deck 50 ft. from OHW & 25 ft. from ROW on the property described as: Tax ID number: 330372000, Lot 10, Sylvan Shores, Section 8, TWP 139, Range 38, Toad Lake Township. The property is located on Big Toad Lake at 20831 W Toad Lake Drive.

At this time, Kessler removed himself from the Board due to a conflict of interest. Mark and Maria Voigt explained the application to the Board. Broehl's presently owns the property and they are purchasing the property. This is a substandard lot and would require a variance to place anything on the lot.

Schutz commented that it took courage to clean up that lot. Spaeth questioned if they were planning on building on the old foundation. Voigt's stated no and that the structure would be a little further back. Chirpich questioned how the bank would be stabilized if it were cut into. Voigt stated that they would be building into the hill, so it would look like a two story on the south side and one story on the north side. A portion of the basement would be a tuck under garage. Schutz questioned the mitigation. Voigt stated that it would be part of the permitting process.

No one spoke in favor of the application. Speaking in opposition of the application was Fred Tuominen, which asked the Zoning Staff to read the letter he previously submitted. At this time, testimony was closed and further discussion was held.

Chirpich stated that there are concerns about contamination of the lake, but storm water retention must be done and the applicant must make sure they do not pollute the lake.

Sherlin stated that this lot is unbuildable according to today's regulations. It is a lot of record, but where is the limit as to what is too large for the lot? Sherlin referred to past variances granted and denied. Spaeth stated that this is a lot of record and some type of building envelope must be granted, in this case, the structure can be more than 20 feet from the road right of way for safety and out of the shore impact zone. Spaeth stated that the variance could be granted because it meets the criteria of practical difficulty. Chirpich stated that there is no practical difficulty because this couple does not own the property. Discussion was held on the ownership, the current owner authorizing the applicants to act in their behalf. Brufloft stated that this is not an unreasonable request.

Motion: Schutz made a motion to approve a variance to allow a dwelling fifty (50) feet from the ordinary high water mark of the lake and thirty (30) feet from the road right of way based on the fact that this is a lot of record and meets the criteria of practical difficulty with the stipulation that a water retention plan be submitted to and approved by Zoning and implemented by the applicant. Spaeth second. All in favor except Sherlin and Chirpich. Kessler abstained. Motion carried.

FOURTH ORDER OF BUSINESS: Joel Traiser. Request a variance to construct a new detached garage with covered porch 90 ft. from OHW on the property described as: Tax ID number: 280108000 & 280203001, PT LOT 4, BEG AT MC#22 TH E 142.7' NE 125' NW 231.55' TO LK & SLY AL LK 190' TO BEG & PT LOT 1, BEG 1364.02' W OF NE SEC COR TH SW 118.29 FT TO LAKE NLY AL LAKE TO N LINE LOT 1 & E TO BEG. Sec 19, TWP 140, Range 38, Shell Lake Township. The property is located on Island Lake at 24234 Shady Lane.

At this time, Chirpich removed himself from the Board due to a conflict of interest. Traiser explained the application to the Board. The property is located on a peninsula. In order to place a garage on the property and allowing access to the well and separation from the septic system, the garage would need to be closer to the bay portion of the lake.

Kessler stated that if the garage size were reduced, a variance would not be required. Spaeth agreed. Discussion was held regarding the topography of the lot, location of well and septic system, and size and location of the proposed garage.

No one spoke in favor of the application. No one spoke against the application. There was no written correspondence either for or against the application. At this time, testimony was closed and further discussion held.

Moore stated that the bay is technically part of the lake, but has the characteristics of a wetland. Kessler stated that there is practical difficulty with the shape and topography of the lot.

Motion: Kessler made a motion to approve a variance to construct a garage ninety (90) feet from the ordinary high water mark of the lake based on the practical difficulty of the shape and topography of the lot. Moore second.

Sherlin stated that the location would not be detrimental to the lake, but cannot find the difficulty to approve the variance because the garage could be downsized and then would not need a variance.

A vote was taken with all members voting in favor of the application. Motion carried.

At this time, Traiser asked questions about other construction around the lake and how they get permitted. Traiser thanked the Board for doing the job they do.

FIFTH ORDER OF BUSINESS: Informational Meeting.

The next informational meeting is scheduled for October 6, 2011 at 7:00 am in the Third Floor Meeting Room of the Original Courthouse.

Since there was no further business to come before the Board, Spaeth made a motion to adjourn the meeting. Schutz second. All in favor. Motion carried. Meeting adjourned at 8:30 p.m.

Jim Brufloft, Chairman

ATTEST Patricia L. Swenson, Zoning Administrator