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**Becker County Board of Adjustments  
July 13th, 2017**

**Present:** Chairman Jim Bruflodt, Members: Harry Johnston, Jim Kovala, Steve Spaeth, Brad Bender, Roger Boatman, Lee Kessler, Interim Zoning Administrator Patricia Swenson and E911/Zoning Technician Rachel Barteel.

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

Introductions were given.

**Kovala** made a motion to approve the minutes for the June 8th, 2017 meeting. **Bender** seconded. The motion passed unanimously. Motion carried.

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

**OLD BUSINESS:**

**FIRST ORDER OF BUSINESS: Roger D Christianson & Kimberly G Christianson Revocable Trust PROJECT LOCATION:** 24393 Woodland Ln. Detroit Lakes, MN 56501  
**TAX ID NUMBER:** 190785001 **APPLICATION AND DESCRIPTION OF PROJECT:**  
Request a variance to construct a detached garage 6 feet from the property line, deviating from the required setback of 10 feet on a residential zoned property over 100 feet wide. A variance is also being requested to construct an addition to a dwelling twenty (20) feet from a bluff, deviating from the standard thirty (30) feet. This application had been tabled from the May 13th 2017 meeting by the applicant.

Swenson presented the application.

Kimberly and Roger Christianson were present. Christianson explained the application to the Board. He requested a variance to construct a detached garage six feet from the side property line and a variance to construct an addition to a dwelling twenty (20) feet from a bluff. Christianson stated the need for the garage is to store seasonal items adding, the current cabin has minimal space for storage with only one room. Christianson noted with a growing family and new grandchild more space is needed to accommodate their needs.

Bruflodt asked Christianson how his proposal had changed from the last meeting. Christianson stated since the last meeting he met with the Lake View Township Board and talked to several other people who advised him on the matter. He stated he has now located the property pins on

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42 the roadside and has verified all setback measurements. He stated his new proposal moves the  
43 garage farther off of the road allowing ample space for off road parking and snow removal. He  
44 added that because the road is angled as it comes through his property they chose to make the  
45 doors face to the west instead of toward the road, similar to a neighbor's property five doors  
46 down.

47  
48 Spaeth asked if it could be moved, to be 10 feet from the side lot line. Christianson replied no, as  
49 they do not want to interfere with the septic, adding he was informed a structure needs to be 10  
50 feet from the septic tank and drain field.

51  
52 Kessler asked about moving the west side of garage closer to the house. Boatman asked  
53 Christianson to approach the Board and clarify the sketch submitted with the proposal. Boatman  
54 asked if the angle could be changed to keep it further away from the road. Christianson replied  
55 no because it would place the garage too close to the septic. Spaeth stated that the proposal  
56 shows to enter from the west so it would get the parking off of the road. Boatman was shown  
57 where the access would be to enter from the west. Spaeth stated if we attempt to move him closer  
58 to the dwelling to meet the sideline setback of 10 feet we would want him to be the full twenty  
59 (20) feet from the road because then his parking would be to the road. Spaeth added the current  
60 proposal shows the garage twenty-one (21) feet from the road.

61  
62 No one spoke in favor of the application. No one spoke against the application. There was no  
63 written correspondence against the application.

64  
65 There was written correspondence for the application from the Lake View Township Board  
66 supporting the proposal for the garage and the doors facing to the west. This was read by  
67 Swenson:

68  
69 July 10, 2017

70  
71 To Whom It May Concern:

72  
73 At the July 10, 2017 regular meeting, the Lake View Town Board reviewed, has no  
74 objection to and approves of the variance request for property located at 24393  
75 Woodland Beach owned by Roger and Kimberly Christianson submitted with updated  
76 attached plan, marked plan B, with garage doors facing West so cars do not back out onto  
77 road.

78  
79 Ken Shroyer, Chairman

80

13 July 17  
Date

81  
82  
83 Letter from Ken Shroyer and attached plan marked B are on recorded in the Becker County  
84 Zoning Office.

85  
86 At this time, testimony was closed. Chairman Bruflodt opened the matter for disussion by the  
87 Board.

88  
89 Spaeth stated he was in favor of the proposal noting good placement of the garage on the  
90 property. Spaeth stated this is the only location for the garage due to the unique lot size, shape,  
91 and road placement. Spaeth stated the septic could potentially be relocated but there may not be a  
92 better place to put it. Spaeth added with the bluff there is no way to move back farther. Spaeth  
93 asked the Board if they were alright with the dwelling additions setback to the road. Kovala  
94 stated they did not have issue with that. Spaeth stated he was in favor.

95  
96 **Motion: Spaeth** made a motion to **approve** the application as it is proposed to construct a  
97 24x26 ft. detached garage six feet from the side property line and approve a variance to construct  
98 a 14x24 ft. and 8x24 ft. addition to a dwelling twenty (20) feet from a bluff, based on the fact  
99 that this is the best placement for the garage and the request does not alter the central character of  
100 the area as it is in conformity with the neighborhood. Stipulations include the doors will be  
101 placed to the west to avoid parking issues on the road. **Kessler second. All in favor. Motion**  
102 **carried. Variance approved.**

103  
104 **New Business**

105  
106 **SECOND ORDER OF BUSINESS: Todd & Marla Branden PROJECT LOCATION:**  
107 12910 S Blue Water Bay Ln, Audubon, MN 56511 **TAX ID NUMBER:** 17.0575.000  
108 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a variance to construct a  
109 dwelling, to be located at eighty-five (85) feet from the ordinary high water mark of the lake,  
110 deviating from the required setback of one hundred (100) feet from the OHW on a recreational  
111 development lake.

112  
113 Swenson presented the application.

114  
115 Todd & Marla Branden were present. Branden explained the request for a variance to construct  
116 a dwelling, to be located at eighty-five (85) feet from the ordinary high water mark of the lake.  
117 Branden stated they met the setback to the lake, however when they went to the Zoning Office to  
118 apply for a permit they were made aware the body of water to the side of their property, named  
119 Blue Water Bay, also had to meet the lake setback, as it is considered an extension of Cormorant

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120 Lake. Branden explained the old house was located at fifty-five (55) feet from the OHW from  
121 the bay and the proposal is for eighty-five (85) feet. Branden stated the property has a unique  
122 narrow pie shape, which creates the setback issue. Branden added the new dwelling will be in  
123 line with the garage.

124  
125 Branden stated the contractor mentioned they might not need a variance since there is private  
126 property between their parcel and Blue Water Bay. Spaeth replied that the setback measurement  
127 is from the bay/lake. Spaeth stated when the Board toured the property they measured ninety (90)  
128 feet from the OHW to the closest point of the proposed dwelling. Branden replied he was being  
129 conservative with the measurements for the setbacks.

130  
131 Spaeth asked where the septic and well were going to be located. Branden stated it will be  
132 twenty (20) feet from the Big Cormorant side. Spaeth asked if this was towards the house.  
133 Branden replied yes and the drainfield will be behind it. Spaeth mentioned that there was a  
134 natural berm there. Spaeth stated he had concerns about controlling the water with the natural  
135 berm on the property, adding that a requirement of the variance approval should be a stormwater  
136 management plan.

137  
138 Spaeth stated this is a good proposal for the irregular shaped lot, adding he approves of the new  
139 house being built farther away than the current structure.

140  
141 No one spoke in favor of the application. No one spoke against the application. There was no  
142 written correspondence for or against the application. At this time, testimony was closed.  
143 Chairman Brufloft opened the matter for discussion by the Board.

144  
145 Boatman asked if the Zoning Office would be able to assist with a stormwater plan. Swenson  
146 replied yes.

147  
148 Bender stated that 12 feet from the other side lot line to the house is not an excessive request and  
149 that he would vote in favor the proposal.

150  
151 **Motion: Boatman** made a motion to **approve** the request for a variance to construct a dwelling,  
152 to be located at eighty-five (85) feet from the ordinary high water mark of the lake, deviating  
153 from the required setback of one hundred (100) feet from the OHW on a recreational  
154 development lake, based on unique lot shape and setback issues, with a stipulation to establish a  
155 stormwater management plan to improve water conservation and maintain the natural berm.  
156 Findings include the proposal does not alter the central character of the area as it is in conformity  
157 with the neighborhood. **Johnston second. All in favor. Motion carried. Variance approved.**

158  
159 **THIRD ORDER OF BUSINESS: APPLICANT: Kelly & Jill Gress PROJECT**  
160 **LOCATION: 20652 Co Hwy 22 Detroit Lakes, MN 56501 TAX ID NUMBER:17.0766.000**

161 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a variance to construct a  
162 detached garage, to be located at seventy-six (76) feet from the ordinary high water mark of the  
163 lake, and seventeen (17) feet from the ROW, deviating from the required setback of one hundred  
164 (100) feet from the OHW on a recreational development lake and deviating from the required  
165 setback of forty-five (45) feet from the road right of way for a structure on a county road.

166  
167 Swenson presented the application.

168  
169 Steven Hershberger, contractor, was present as representative for Kelly & Jill Gress. Hershberger  
170 explained their application. Hershberger stated they would like a variance to construct a detached  
171 garage, to be located at seventy-six (76) feet from the ordinary high water mark of the lake, and  
172 seventeen (17) feet from the ROW of a county highway due to restrictive space on Maud Lake.

173  
174 Boatman stated if they moved it back 3 more feet from the ROW they would be twenty (20) feet  
175 back allowing room for off street parking. Hershberger stated they would be able to do that.  
176 Hershberger asked if that would impact the impervious lot coverage calculation. Brufloft stated  
177 Hershberger would have to recalculate that to determine if it would be an issue.

178  
179 Bender asked for clarification of what structures were to be removed on the property.  
180 Hershberger replied the parking garage and the other smaller shed close to the road would be  
181 removed. Bender asked for clarification on the sketch provided with the application to the green  
182 highlighted areas. Bender asked if this was concrete being removed or replaced. Hershberger  
183 replied yes, the items highlighted in green were being removed to decrease the total amount of  
184 impervious surface. Kovala stated the application includes the addition of gutters and french  
185 drains to control stormwater.

186  
187 No one spoke in favor of the application. No one spoke against the application. There was no  
188 written correspondence either for or against the application. At this time, testimony was closed.  
189 Chairman Brufloft opened the matter for discussion by the Board.

190  
191 Spaeth noted that the existing cabin is minimal in size however it is in the shore impact zone.  
192 Spaeth stated he is not in favor of the proposal, as is it would allow the dwelling to stay in the  
193 shore impact zone. Bender stated that every other cottage along that road is in the shore impact  
194 zone. Bender added that the proposal is not for an addition to the house but for a detached  
195 structure. Bender stated he is in favor as they are not requesting to build any closer to the lake.  
196 Spaeth stated that the goal of the ordinance is to move stuff away from the water. Boatman stated  
197 that the shore impact zone for this lake is fifty (50) feet. Kessler asked if there was any precedent  
198 for having a cabin in the shore impact zone and having a detached garage. Brufloft stated there  
199 might have been, but not that he could recall. Brufloft stated that the purpose of the ordinance is  
200 to keep people out of the shore impact zone, which is half of the required setback. Brufloft  
201 added he does recall the Board being rigid with new construction in the shore impact zone.

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202 Spaeth stated the entire property should be considered when reviewing an application. He added  
203 allowing the cottage to remain in the shore impact zone would be beyond what they have  
204 allowed in the past. Johnston stated that they are not asking for a variance for the cottage or an  
205 addition to it therefore a variance approval would not allow it to stay there. Kovala stated that the  
206 owner is removing cement pavers all over the property and other buildings which makes the  
207 property more conforming and keeps the lot under 25% impervious coverage.  
208

209 Boatman asked what the distance is between the house and the garage. Kessler replied it is  
210 twenty-three and a half (23.5) feet. Kessler added they could get out of the shore impact zone if  
211 they moved the cottage. Bender stated he thought the distance was less.  
212

213 Brufloft stated that he agreed with Johnston, the application is not requesting any changes to the  
214 cottage, just the detached garage. He added that they are all uniform, small lots in this area, and  
215 they should not take the cottage location into consideration for this request.  
216

217 Spaeth made a motion to deny the request as the Board has a policy to deny structures in the  
218 shore impact zone. Spaeth noted that there is room on the parcel to move both structures out of  
219 the shore impact zone if they moved the cottage.  
220

221 No one seconded.  
222

223 Motion died due to lack of a second.  
224

225 Kovala stated he was in favor of the application with the change to twenty (20) feet from the  
226 ROW instead of the requested seventeen (17) feet.  
227

228 **Motion: Kovala** made a motion to **approve** a variance to construct a detached garage, to be  
229 located at seventy-six (76) feet from the ordinary high water mark of the lake, and twenty (20)  
230 feet from the ROW, based on lot size and setback issues, with the stipulation that the 7x14 ft. and  
231 6x20 ft. sheds are removed, along with the noted concrete slabs, with the stipulation that a  
232 stormwater a management plan to be completed. **Boatman second. In favor** were Brufloft,  
233 Johnston, Kovala, Bender, Boatman, and Kessler. Spaeth **opposed. Motion carried. Variance**  
234 **approved.**  
235

236 **FOURTH ORDER OF BUSINESS APPLICANT: Jay & Lisa Hanson PROJECT**  
237 **LOCATION:** 36775 N Hungry Lake Trl, Frazee, MN 56544 **TAX ID NUMBER:** 29.0230.000;  
238 29.0231.000; 29.0232.000 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a  
239 variance to make 3 substandard lots currently deeded to the same party to be allowed to be sold  
240 separately as individual lots of record. Proposed is deviating from the required standard lot size  
241 of 300 front feet of lakeshore and 120,000 square foot standard lot size on Hungry Lake.  
242

243 Swenson presented the application.

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Jay & Lisa Hanson were present. Hanson explained the application. Hanson stated their request to make 3 substandard lots currently deeded to the same party to be allowed to be sold separately due to financial hardship. Hanson stated he had come into the Zoning Office in May for another reason and was advised at that time his parcels were no longer considered 3 separate buildable lots of record due to a change in the ordinance, requiring larger standard lot sizes. Hanson stated when he purchased the 3 lots in 2000 they were considered standard lots of record and he assumed he would eventually be able to sell them separately. Hanson stated he built his house on the far east side of the lot, sixty (60) feet from the side property line on the most easterly of the 3 lots. Hanson added that the placement of the dwelling was determined based on the understanding they had 3 buildable lots. Hanson stated that the change from 3 buildable lots, to 2, would result in an awkward placement of the dwelling on the property. Bender noted when looking at the GIS map provided with the proposal, it appeared the garage is closer than sixty (60) feet to the property line. Hanson replied that, yes, Zoning had approved the garage to be 10 feet from the west side property line.

Kovala stated that the Board has had a number of opportunities in the county where the standard lot size change from 200 to 300 front feet has affect homeowners. Kovala recalled an owner who originally had 6 buildable lots now, only has 4. Kovala added it was unfortunate, but the Board is bound to the 300ft lot requirement on this type of lake by the ordinance.

Kessler asked the Hanson's what their practical difficulty was. Lisa Hanson asked if there was already a house on each of the parcels could they be sold separately. Bender replied if you had built at the time you bought the lots then yes. Spaeth added that they could be sold separately if there were structures on them. Hanson asked if he had purchased lots 1, 3, and 5 would they have been able to be sold separately. Spaeth replied yes because they would not have been contiguous.

Hanson stated that he had a two part plan for his retirement; the first was to sell the two additional parcels and the second part was his pension. Hanson read from his pension plan stating he has been a part of the Teamsters Union for 20 years. In summary, the paper Hanson read stated Central Stage Pension is underfunded and will essentially be broke in 9 years. Hanson stated with 2 hits like this to their retirement plan it would substantially change their lifestyle from what they had originally planned.

Brufloft stated he understands Hanson's concerns, however, per the ordinance, economic considerations will not be considered by the Board, adding that would be everyone's hardship.

No one spoke against the application.

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283 Neighbor to the Hanson's, Debra Wirth, owner of parcel numbers 29.0233.000, 29.0234.000,  
284 29.0235.000, 29.0236.000, Lots 4, 5, 6, & 7 in the same subdivision, spoke in favor of the  
285 application. Brufloft asked Wirth if she owned the complete point. Wirth replied yes. Wirth  
286 stated she was unaware of the new standard lot requirements, adding it was unfortunate that the  
287 state did not give notice to landowners when the changes were put into effect. Wirth requested  
288 information on how this change impacted her properties. Brufloft stated that she could contact  
289 the Zoning Office to get clarification on her specific properties. Wirth stated that she did not  
290 have a problem with the Hanson's request to sell the properties as separate buildable lots and  
291 does not see it as a negative impact to the lake.

292

293 There was no written correspondence for the application.

294

295 There was written correspondence against the application from neighbors Ryan and Tracy  
296 Roforth, owners of parcel number 29.0021.000; located at: 37231 Hungry Lake Lane, Frazee,  
297 MN 56544. This was read by Swenson:

298

299 July 12, 2017

300

301 To: Becker County Planning and Zoning Department  
302 915 Lake Avenue  
303 Detroit Lakes, MN 56501

304

305 From: Ryan and Tracy Roforth  
306 37231 Hungry Lake Lane  
307 Frazee, MN 56544

308

309 Re: Jay and Lisa Hanson application for variance of current property.

310

311 We are opposed to the proposal to create 3 substandard lake lots at the current location.  
312 Hungry Lake is a small lake; the property is located in a small bay with numerous lily  
313 pads where fish spawn in the spring and where bass reside during spring/summer months.  
314 Potentially having one lot turn into three will disrupt and have a negative impact on the  
315 natural habitat for the wildlife and fish; by granting potentially 3 accesses to the bay  
316 where boats will have to go through this area in order to access the rest of the lake.  
317 We do not feel this proposal to divide up the existing lot is appropriate for this size of  
318 lake, the type of shoreline or location of the property.  
319 Thank you for hearing our concerns.

320

321 Sincerely,  
322 Ryan and Tracy Roforth

323

324 At this time, testimony was closed. Chairman Brufloft opened the matter for discussion by the  
325 Board.

326 Hanson asked if he could table the application. Brufloft stated the decision would be final unless  
327 Hanson wanted to come back with a different idea. Bender asked if Hanson could table the  
328 application after Board discussion. Brufloft stated yes, he could. Bender requested the Board to  
329 further research the change to the ordinance on lot size standards, to verify if its intent was to be  
330 applied to properties that were split and surveyed off prior to the change or if it was just for  
331 unplatted lands. Swenson stated it was not defined in the ordinance. Kessler added it was also not  
332 defined in the minutes from the meetings when it was discussed and approved.

333  
334 Brufloft stated the Board has to look at how they have adjudicated on these types of situations in  
335 the past. Brufloft added they do not want substandard lots. Spaeth stated the Board has a policy  
336 of not creating substandard lots, recalling it has never been approved with the current Board.  
337 Spaeth stated Hanson bought 3 lots legally however, now they can have 2, adding that he is in  
338 favor of denying the application. Bender stated he can respect that train of thought. Boatman  
339 stated the Board could not approve a substandard lot contrary to state statute. Johnston stated he  
340 was concerned not knowing what the intent of the Board was when the standard lot size change  
341 was made.

342  
343 Hanson asked if the Board thought he actually did not buy 3 lots. Spaeth stated no, he purchased  
344 3 lots of record, however once the law changes it takes a step back, resulting in 2 buildable lots  
345 instead of 3 buildable lots. Brufloft suggested Hanson could charge more for each lot.

346  
347 At this time, Hanson asked to have his application tabled until he was able to create a new  
348 proposal.

349  
350 **FIFTH ORDER OF BUSINESS: APPLICANT: Dustin & Angie Holte PROJECT**  
351 **LOCATION: 16005 221<sup>st</sup> St., Audubon, MN TAX ID NUMBER: 07.0164.000**  
352 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a variance to construct a  
353 dwelling and attached garage, to be located at one hundred seventeen (117) feet from the  
354 ordinary high water mark of the lake, deviating from the required setback of one hundred fifty  
355 (150) feet from a natural environment lake.

356  
357 Swenson presented the application.

358  
359 Dustin & Angie Holte were present. Holte explained the application to the Board. Holte  
360 requested a variance to construct a dwelling and attached garage, to be located at one hundred  
361 seventeen (117) feet from the ordinary high water mark of the lake. Holt explained the  
362 uniqueness of the property resulting in setback issues. Holt stated they are on top of a hill, to one  
363 side lot line they are too close to the lake, the other they are too close to the side lot line, and to  
364 the front they are also too close to the lake.

365  
366 Brufloft asked what is moveable on the property to allow the proposed structure to become  
367 conforming. Holte replied nothing. Brufloft asked if the septic could be moved. Holte stated per

368 the septic contractor who recertified the property, the septic could not be moved anywhere else  
369 on the property or it would not be up to code.

370  
371 Holte stated they measured the nearest point to the lake at one hundred and seventeen (117) feet.  
372 Spaeth stated the north line is at two hundred and ninety-seven (297) feet and the east line is at  
373 two hundred and twenty-nine (229) feet. Spaeth stated when the Board toured the property they  
374 measured from the SW part of the lake where it appeared to be the closest point to the proposed  
375 house. Spaeth added after measuring it appeared that a house could be build there within the  
376 zoning setback requirements without the need for a variance. Spaeth added that the back lot line  
377 setback was not marked when they toured the property. Holte asked the east one? Spaeth replied  
378 yes, it appeared there was space to move it back behind the camper. Holte stated that this would  
379 not work due to the “L” design of the house. Bender stated they may want to redesign the house  
380 plan to meet the setback requirements. Bender added that it appeared they are two hundred sixty-  
381 eight feet from the lake on the north side allowing room to build within the setback requirements.  
382 Holte stated they cannot move it north because of the septic location. Holte added that if they  
383 move closer west or south it will be too close to the lake, when the lake gets high it would fill up  
384 with water.

385  
386 Kessler asked where the property line is. Holte stated it is right behind the camper.

387  
388 Spaeth stated they should reshape the house and redesign the layout of the structures on the lot.  
389 Spaeth stated there are very little measurements on the sketch, making it difficult to determine  
390 what can be done without a variance.

391  
392 Brufloft stated the property is so wide open the Board is not convinced that all could not be  
393 moved to be in compliance. Brufloft added Holte should contact the septic contractor to verify in  
394 writing that the septic cannot be moved even with the change of shape to the house.

395  
396 No one spoke in favor of the application. No one spoke against the application. There was no  
397 written correspondence for or against the application. At this time, testimony was closed.

398  
399 At this time, Holte asked to have his application tabled until he was able to create a new proposal  
400 and consult the septic contractor.

401  
402 **SIXTH ORDER OF BUSINESS: APPLICANT: James & Margo McCulley PROJECT**  
403 **LOCATION: 24455 N Melissa Dr, Detroit Lakes, MN 56501 TAX ID NUMBER: 19.1232.000**  
404 **APPLICATION AND DESCRIPTION OF PROJECT: Request a variance to construct a**  
405 **deck, to be located at fifty-eight (58) feet from the ordinary high water mark of the lake,**  
406 **deviating from the required setback of seventy-five (75) feet from the OHW on a general**  
407 **development lake.**  
408

409 Swenson presented the application.

410

411 Owners James & Margo McCulley were present along with their representative Joyce Holm.  
412 McCulley explained his request to construct a deck, to be located at fifty-eight (58) feet from the  
413 ordinary high water mark of the lake. McCulley stated that the house was built in the 1940's with  
414 windows on one side not allowing a view to the lake. McCulley stated they would like to replace  
415 the windows and place a deck on the front of the house.

416

417 Spaeth stated the proposal is requesting two decks totaling five hundred and ten (510) square  
418 feet; the ordinance allows you to have one deck totaling two hundred and forty (240) square feet.  
419 Margo McCulley stated they are requesting two decks, one on either side, because the house  
420 sticks out in the back and she would like it to appear uniform from the lake. Spaeth suggested  
421 they could do two 10x10 ft. decks which would keep them under the two hundred and forty (240)  
422 square feet allowed by the ordinance.

423

424 Bender added that the decks would be the only uniform thing about the house, stating it has an  
425 odd shape to it. Margo McCulley stated they would like it to look uniform from the lake.  
426 Brufloft stated that it does not have to balance. Margo McCulley stated when they drive around  
427 the lake on the boat they have seen many other residents with similar structures and it looks  
428 pleasant to have this balance. Kessler replied she could build two 10x12ft. decks, totaling one  
429 hundred and twenty feet on either side and it would be in conformity. Margo McCulley stated  
430 with those dimensions the decks would not reach to the end of the house. Kessler replied they are  
431 too close to the lake to ask for a larger deck, adding they are allowed a total of two hundred and  
432 forty (240) square feet of decking without a variance. Margo McCulley asked why. Brufloft  
433 replied that a variance is perpetual, it goes with the deed of the property. McCulley asked if the  
434 deck is detrimental to the property. Boatman replied the proposal is for a five hundred and ten  
435 (510) square foot deck, which is more than double the allowance from the ordinance. Brufloft  
436 added the Board and ordinance are in the practice of keeping people back from the lake, they are  
437 after uniformity also but, to want a variance that goes with the deed because it looks nice is not a  
438 variance, adding a hardship must be presented. Brufloft stated they are allowed a two hundred  
439 and forty (240) square foot deck or two smaller ones totaling such.

440

441 Holm asked if the two hundred and forty (240) square foot deck could be approved in-house.  
442 Brufloft replied yes. Swenson asked how wide the back stoop was, explaining they could replace  
443 the stoop with decking as it would be building in the same footprint. Swenson added this would  
444 be in addition to the two hundred and forty (240) square foot deck. Holm asked if this could be  
445 approved in-house. Swenson said yes. Holm stated they would resubmit a new application.

446

447 No one spoke in favor of the application. No one spoke against the application. There was no  
448 written correspondence for or against the application. At this time, testimony was closed.

449 Chairman Brufloft opened the matter for discussion by the Board.

450

451 **Motion:** Spaeth made a motion to **deny** the variance request to construct a deck, to be located  
452 at fifty-eight (58) feet from the ordinary high water mark of the lake, based on the fact that no  
453 practical difficulty was shown and the ordinance allows for a two hundred and forty (240) square

454 foot deck to be constructed without a variance. **Kessler second. All in favor. Motion carried.**  
455 **Variance denied.**

456  
457 **SEVENTH ORDER OF BUSINESS: APPLICANT: Joseph & Wendy Olson PROJECT**  
458 **LOCATION: 12821 Abbey Lake Dr., Detroit Lakes, MN 56501 TAX ID NUMBER:**  
459 **19.0691.000 APPLICATION AND DESCRIPTION OF PROJECT:** Request a variance to  
460 construct an addition to a dwelling, to be located at one hundred thirty-five feet (135) feet from  
461 the ordinary high water mark of the lake, deviating from the required setback of one hundred  
462 fifty (150) feet from a natural environment lake.

463  
464 Swenson introduced the application.

465  
466 Joseph & Wendy Olson were present. Olson explained the application to construct an addition to  
467 a dwelling, to be located at one hundred thirty-five feet (135) feet from the ordinary high water  
468 mark of the lake. Olson stated the need for the addition is to expand the current bedroom to  
469 accommodate his wife's need for a recliner due to her disability. Olson stated their children built  
470 the deck onto the house 10 years ago. Olson stated he was informed when they submitted their  
471 site permit for the addition, that the deck had not been permitted. Olson stated that the property is  
472 located on a gravel road and the current view off the front has poor scenery. Olson stated this is  
473 the reason for the deck request addition off of the bedroom to face the lake.

474  
475 Kessler asked about the addition request stating there is an odd jog indicated on the sketch of 1  
476 ft. toward the lake and 1 ft. in the back. Kessler suggested they could put 2 ft. toward the lake to  
477 make it more uniform. Spaeth asked why Olson is not building straight across. Olson replied that  
478 they could not bring it forward that far because it would interfere with the septic setback  
479 requirements. Kovala stated the jog is not esthetically pleasing. Kovala stated it would be a good  
480 sized room. Olson replied the dwelling is for their retirement and they want to have room for all  
481 of their needs, adding they are not adding any more rooms; it will remain a 3 bedroom.

482  
483 No one spoke in favor or against the application. There was no written correspondence for or  
484 against the application. At this time, testimony was closed and further discussion was held.

485  
486 Spaeth stated he was in favor of the proposal explaining, the request is outside of the shore  
487 impact zone. Kessler asked if he liked the 1 foot jog on the end. Spaeth stated no, but the Board  
488 could approve with the consideration to be another foot away from the lake, reducing the site  
489 proposal to a 20x26 ft. addition. Spaeth suggested that all of the stormwater runoff for their  
490 entire structure and addition should be controlled because there is a slope. Bender questioned  
491 approving a deck with the overall dimensions over two hundred and forty (240) square feet  
492 noting this would not require a variance. Olson replied that it would allow them a fire exit in case  
493 of an emergency.

494

495 **Motion: Kessler** made a motion to **approve** a variance to construct a 10x32 ft. deck, to be  
496 located at one hundred thirty-six feet (136) feet from the ordinary high water mark of the lake  
497 and to construct a 20x26 ft. addition to a dwelling to be located at one hundred and forty-six feet  
498 (146) from the ordinary high water mark of the lake, based on the fact that it would not be  
499 detrimental to the lake, it would conform with the current structure and it would give the  
500 property reasonable use, with the stipulation to control all stormwater runoff. **Kovala second.**  
501 Brufloft, Johnston, Kovala, Spaeth, Bender, Kessler were **in favor**. Boatman **opposed**. **Motion**  
502 **carried. Variance approved.**  
503

504 **EIGHTH ORDER OF BUSINESS: APPLICANT: Robert & Tammy Schmidt PROJECT**  
505 **LOCATION:** 16177 Saign Ln, Audubon, MN 56511 **TAX ID NUMBER:** 02.0284.000;  
506 02.0285.000 & 02.0286.000 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a  
507 variance to construct a dwelling, to be located at fifty-six (56) feet from the ordinary high water  
508 mark of the lake, deviating from the required setback of one hundred fifty (100) feet from a  
509 recreational development lake. Applicant had a pervious request presented at the April 13<sup>th</sup>, 2017  
510 hearing which was tabled and denied at the May 11<sup>th</sup>, 2017 hearing.  
511

512 Swenson introduced the application.  
513

514 Owners Robert & Tammy Schmidt were present. Schmidt explained his new proposal for a  
515 variance to construct a dwelling, to be located at fifty-six (56) feet from the ordinary high water  
516 mark of the lake. Schmidt stated they purchased the property with his in-laws with the intent to  
517 have two cabins. Due to setback issues his in-laws have chosen to opt out of the property.  
518 Schmidt stated that they will remove the other cabin from the property allowing the three parcels  
519 to create one conforming, buildable lot and replace it with one dwelling. Schmidt stated they  
520 removed the original dwelling, which had a variance for forty-one (41) feet from the OHW of the  
521 lake. Schmidt added the other cabin on the property, located at twenty-one (21) feet from the  
522 OHW, will also be removed. Schmidt explained the new proposed dwelling request is to center  
523 the cabin on the peninsula, allowing fifty-six feet from the OHW on either side of the dwelling.  
524 Schmidt added the replacement structure will stay under the combine square footage of the two  
525 original structures.  
526

527 Spaeth asked what the size of the existing structure is. Schmidt replied 36x48 ft. Spaeth asked if  
528 the manufactured home would be removed. Schmidt replied the trailer removed was 12x70 ft.,  
529 the porch addition was 10x18 ft., and the unpermitted deck removed squared the house. Spaeth  
530 replied you had two residences when you purchased the properties, you can still build in the  
531 footprints. Spaeth asked if Schmidt felt that changing from two dwellings to one would be better  
532 for the property. Schmidt replied yes, it is better staying back from the lake and the result is a  
533 conforming lot allowing us the ability to build what we would like. Schmidt added if they built in  
534 the footprint it would be detrimental. Schmidt stated he was told at the first hearing the property  
535 did not appear it should have two dwellings therefore, they are offering to remove one. Spaeth

536 stated the setbacks are improved all the way around from the previous request and from the  
537 option to build in the footprints.

538  
539 Bender asked if Schmidt could place the house any further from the lake. Schmidt stated his wife  
540 thoroughly reviewed the setbacks and determined that the placement was at the widest part of the  
541 point, to get the maximum shoreline distance. Schmidt added when you move out it gets more  
542 narrow.

543  
544 No one spoke in favor of the application.

545  
546 Richard Ellsworth, Audubon Township Chairman, spoke against the application. Ellsworth  
547 asked if the new proposed structure is completely out of the shore impact zone. Brufloft replied  
548 yes, with the measurements provided by Schmidt, it will be out of the shore impact zone.  
549 Ellsworth asked if it was necessary to build a two story structure here, noting other local  
550 landowners only have one story. Ellsworth asked if the soil would support a two story structure.  
551 Spaeth replied it is up to the engineers to determine if the land will support that type of structure,  
552 adding, that it is not a requirement of the Board to do soil boring. Brufloft stated they could not  
553 do a two story if they built in the footprint.

554  
555 Ellsworth asked if all three parcels will be combined. Brufloft replied yes. Ellsworth requested  
556 verification that Schmidt does not have to build in the footprint. Spaeth replied Schmidt wants to  
557 build one structure and needs a variance because it does not meet the setback requirements. If he  
558 was building in the footprint he would not need to get a variance. Spaeth stated there is a bonus  
559 here, as Schmidt is removing two structures from the shore impact zone, where he could have  
560 two if he rebuilds in the footprint. Spaeth added, instead, Schmidt is requesting one structure and  
561 is moving it back. Spaeth stated he is in favor of the proposal. Spaeth stated he would  
562 recommend Schmidt control all water runoff.

563  
564 Ellsworth asked what if the house sinks. Spaeth replied engineering is not something the Board  
565 considers, if it sinks it would be an issue for the homeowner. Ellsworth stated another Audubon  
566 Township Board member mentioned the Schmidt's were going to sell the property to Miller.  
567 Tammy Schmidt replied that was untrue, they are not selling the property.

568  
569 Ellsworth noted the location of the septic and well were not indicated on the proposal. Ellsworth  
570 asked if they had to be compliant before their request is approved. Swenson stated the elevation  
571 shows a holding tank, adding a septic compliance was submitted and is on record in the Zoning  
572 Office. Ellsworth asked if the well has been checked and verified. Swenson stated that the  
573 Zoning Office does not collect that information, the MN Department of Health tracks and  
574 enforces well compliance and installation. Schmidt stated that they currently have a tank on the  
575 property; however, he would consider upgrading. Schmidt stated when talking to the septic

576 inspector, they discussed options for a different type of system, but for now they will use the  
577 holding tank that was certified. Sean Felker Audubon Township Supervisor was present, he had  
578 no further questions.

579  
580 There was no written correspondence either for or against the application. At this time,  
581 testimony was closed and further discussion was held.

582  
583 Bender stated the proposal was a net positive, two dwellings are being removed from the shore  
584 impact zone and creating one buildable lot.

585  
586 Spaeth asked if the Board could rescind the original variance, approved in 1978, from the mobile  
587 addition at forty-one (41) feet from the OHW. Swenson replied that it could be added as a  
588 stipulation of the variance. Spaeth stated he wanted the variance off the books as it allowed a  
589 structure to be built in the shore impact zone. Spaeth added he was in favor of the proposal with  
590 those stipulations.

591  
592 **Motion: Spaeth** made a motion to **approve** the variance request to construct a dwelling, to be  
593 located at fifty-six (56) feet from the ordinary high water mark of the lake, deviating from the  
594 required setback of one hundred fifty (100) feet from a recreational development lake, based on  
595 the fact two non-conforming dwellings are to be removed from the shore impact zone, creating  
596 one buildable lot, with the stipulation the variance to build a 10x18 ft. addition forty-one (41)  
597 feet from the OHW, approved in 1978, document number 297948, on record in the Becker  
598 County Recorder's Office, be rescinded and a stormwater management plan completed.

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

600  
601 **NINTH ORDER OF BUSINESS: Informational Meeting.** The next informational meeting is  
602 scheduled for Thursday, August 3rd, 2017 at 7:00 a.m. in the 3<sup>rd</sup> Floor Meeting Room of the  
603 Original Courthouse.

604  
605 As there was no further business to come before the Board, Kovala made a motion to adjourn the  
606 meeting. Spaeth seconded. All in favor. Motion carried. Meeting adjourned.

607  
608 \_\_\_\_\_ ATTEST \_\_\_\_\_  
609 Jim Bruflo dt, Chairman Patricia Swenson,  
610 Interim Planning and Zoning Supervisor