

Becker County Board of Adjustment
July 14, 2004

Present: Board Members: John Tompt, Jerome Flottemesch, Tom Oakes, Harry Johnston, James Elletson, and Terry Kalil. Zoning Staff Patricia Johnson, Administrator and Debi Moltzan.

Chairman Johnston called the meeting to order at 7:00 p.m. Minutes were recorded by Debi Moltzan.

Johnston explained the procedure for this evenings meeting and had Elletson read the criteria needed for granting of a variance.

FIRST ORDER OF BUSINESS: Wayne Borgen. This application was pulled from the agenda at the request of the property owner.

SECOND ORDER OF BUSINESS: Beverly Olson. Request a variance to construct an addition and new foundation on existing dwelling 61 feet from the centerline of County Road #22, 2 feet from the side property line and 39 feet from the ordinary high water mark of Lake Sallie has been filed for the property described as: W 45 feet of Lot 4 Block 3 Shoreham; Section 19, TWP 138, Range 41, Lake View Township. PID Number 19.1767.000.

Olson and contractor Frank Hanson explained the application to the Board. Olson stated that she would like to make this cabin a year round home. Hanson stated that the addition would be even with the existing structure and would be an attached garage.

Elletson questioned the distance from the side lot line. Hanson estimated about one foot. Elletson questioned if the addition would be single story. Hanson stated that it may be one and one-half stories. Hanson further stated that they are looking at the possibility of tearing down this structure and starting over and was wondering what footprint could be given for a new structure.

Discussion was held regarding the size of the lot, location of present structure, impervious coverage and relocation of a new structure. Johnson stated that the Board must act on the application in front of them. Johnson further stated that if a new structure is desired, the applicant should table the application until a new plan could be presented.

Olson stated that the house could not be slid over because there is only one tree on the property and she needed room to get her dock in and out of the water. Johnston stated that if the house had to be raised to put a new foundation under the structure, the structure could be moved over. Johnson stated that a tree is not a hardship. Elletson agreed that the application should be tabled to allow the applicant to take a closer look and to reconfigure a new plan. Flottemesch stated that a new foundation is a structural change that would require a variance.

Discussion was held on a potential location of a new structure that would be out of the shore impact zone and reduction in impervious material. Flottesmesch told Olson and Hanson to work with the Pelican River Watershed on plans to control run off and reduce impervious material. Kalil stated that the distance she measured from the ordinary high water mark was 28 feet because the deck is part of the structure, not 39 feet.

No one spoke in favor of the application. Speaking in opposition to the application was Lake View Town Board. Written correspondence was received from:

Pelican River Watershed District in opposition to the application
Charles Beisner with concerns about the application

At this time, testimony was closed.

Further discussion was held regarding the setbacks and impervious coverage. Johnston stated that the Board could act on the application and set a footprint, or the applicant could table the application for 30 days. At this time, Olson asked to table the application until the August 2004 meeting.

Motion: Flottesmesch made a motion to postpone the application until the August 2004 meeting at the request of the applicant. Elletson second. All in favor. Motion carried. Application postponed.

THIRD ORDER OF BUSINESS: Mike Burns. Request a variance to construct an addition 55 feet from the ordinary high water mark of the lake for the property described as: Pt Lot 1 Beg 465.9 ft NE of SW Cor Lot 1 Th SW to Lk N 50 ft; Section 11, TWP 139, Range 40. Erie Township. PID Number 10.0135.000.

Burns explained the application to the Board. They bought the cabin in October 2003. The deck on the side and front were there when they bought the property. They hired a contractor to enclose the porch. They were shut down because there was no permit issued.

Kalil questioned both the side deck and front deck as being existing decks because it looked like new construction. Burns stated that the decks were there when they bought it last October. Kalil questioned if the white stakes were the property lines. Burns stated that the white stakes were the property line. Kalil then stated that there was a setback issue with the side deck; the side deck was approximately 6 inches from the side lot line. Oakes questioned if the structure was located in the shore impact zone. Johnson stated that the shore impact zone is 50 feet on this lake.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from:

Mark Sandberg in opposition to the application
Steve McCormick in opposition to the application
Torrey Callies in opposition to the application
Terry Callies in opposition to the application

At this time, testimony was closed.

Further discussion was held. Flottemesch stated that the structure was in front of the string line. Kalil stated that there were several issues. Kalil stated that there was the issue of the side deck and the side lot line, the front deck and the lake setback and string line setback. Kalil stated that she realizes that the Burns just bought the property and are stuck with the mess of the former owner, but that is not a factor in granting a variance. Kalil stated that a variance cannot be granted for 6 inches from the property line, but there is an allowance for egress out of the door. Flottemesch questioned if there had always been a side deck. Johnson stated that there were no permits for either deck in the file and does not know when they were constructed. Burns stated that even the step would be too close to the lot line. Johnston stated that it would, but an egress would be allowed, but not a deck on the whole side of the house.

Elletson stated that this is a nonconforming cabin and that a nonconforming cabin cannot be enlarged or structurally changed. To compound the matter, the addition is in front of the string line. Elletson stated that he could not support the lakeside addition. Johnston questioned if a nonconforming deck addition as per Section 6 would pertain. Johnson read this portion of the Ordinance to the Board. Johnson stated that the decks in question are new decks, which were not permitted and should have to be removed and that the Board must act on the application before them.

Motion: Elletson made a motion to deny a variance to construct an addition fifty-five (55) feet from the ordinary high water mark of the lake based on the fact that the addition would intensify a nonconforming structure and the addition is in front of the string line and the current side yard deck and lake front deck be removed to conform with the current zoning regulations. Oakes second. All in favor. Variance denied.

FOURTH ORDER OF BUSINESS: Jeffery Sandoval. Request a variance to construct a dwelling 70 feet from the centerline of the County Road on the property described as: Pt NE $\frac{1}{4}$ NW $\frac{1}{4}$; Section 9, TWP 138, Range 42; Lake Eunice Township. PID Number 17.0102.000.

Sandoval and Mike Conlon, Hilltop Homes, explained the application to the Board. Due to the topography and wetlands, moving the house further back would create water problems in the basement of the new house. The old school house would be removed upon completion of the new house. Conlon has checked with the Becker County Highway Department and the road right-of-way in that area is only 66 feet (33 ft on each side of the centerline).

Elletson questioned what was buried under the plywood in the proposed location of the house. Conlon stated that the pressure tank and well equipment was in that pit and would be located in the basement of the new house. Flottemesch stated that the proposed garage would be 37 feet off the right-of-way as proposed. Johnston questioned the time frame of the project. Conlon stated that they wanted to have a home in there within 60 days, if granted.

No one spoke in favor of the application. No one spoke against the application. Written correspondence in favor of the application were Algot Erickson, Clarion Eilertson, Marly Rislund, Roland and Beverly Morton. At this time, testimony was closed.

Further discussion was held regarding the size of the lot, the topography, the wetland location, the road right-of-way and the removal of the existing structure. Flottesmesch questioned how the garage would be entered. Sandoval stated that the garage would be entered parallel to the road.

Motion: Flottesmesch made a motion to approve a variance to construct a dwelling (house and attached garage) seventy (70) feet from the centerline of the county road based on the location of the wetlands and the size of the property with the stipulation that the access to the garage be parallel to the road and not perpendicular to the road and that the existing structure be removed by November 1, 2004. Elletson in favor. Motion carried. Variance approved.

FIFTH ORDER OF BUSINESS: Greg Hapka. Request a variance to construct a garage 53 feet from the centerline of the township road and exceed lot coverage for a total of 29% impervious coverage for the property described as: Lot 5 Bergquist Beach First Addition; Section 27, TWP 138, Range 42; Lake Eunice Township. PID Number 17.0445.000.

Hapka explained the application to the Board. The existing storage shed would be removed, along with the asphalt driveway and a new garage would be built in the same location. Hapka stated that the actual measurement would be 49 feet from the centerline of the road. Hapka explained that he measured incorrectly and did not measure the closest point of the structure to the center of the road.

Tompt questioned what type of paver material would be used in place of the asphalt. Hapka stated that he has checked into the Ecostone, which does count as pervious material and is thinking about using that in place of the asphalt. If the Ecostone were to be used, the total project would be 21% impervious coverage with the house addition and garage.

Flottesmesch questioned if the road is in the center of the right-of-way; as a rule, the Board likes to keep structures a minimum of 20 feet from the right-of-way. Hapka stated that he does know where the property pins are located and has a starting point to measure from.

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.

Further discussion was held regarding the road setback and impervious lot coverage.

Motion: Tompt made a motion to approve a variance to allow a garage twenty (20) feet from the road right-of-way with the stipulation that lot coverage cannot exceed twenty-five percent (25%) based on the size of the lot. Oakes second. All in favor. Motion carried.

SIXTH ORDER OF BUSINESS: Dennis Bohner. Request a variance to construct a garage 50 feet from the centerline of the township road and to exceed impervious lot coverage with a total of 31% impervious coverage for the property described as: Lot 3 & 4 White Oak Beach First Addition; Section 6, TWP 138, Range 42; Lake Eunice Township. PID Number 17.1338.000.

Bohner explained the application to the Board. The existing garage would be removed and replaced with a new garage. The garage location cannot be changed due to the well location and the septic system location. Bohner explained that they will be living here year round and need more space.

Kalil questioned if the asphalt parking area would be kept. Bohner stated that he would like to keep the asphalt parking area. Kalil questioned what type of material was under the deck. Bohner stated that there was black plastic under the deck.

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.

Johnston stated that he came up with a different lot size, different measurements and different lot coverage. Further discussion was held regarding these issues. Elletson felt that a footprint should be set let the homeowner figure out how to achieve this.

Motion: Flottesch made a motion to approve a variance to construct a garage twenty (20) feet from the road right-of-way due to the size of the lot, location of the well and septic system with the stipulation that lot coverage cannot exceed twenty-five percent (25%). Oakes second. All in favor. Motion carried.

SEVENTH ORDER OF BUSINESS: David Watson. Request a variance to construct five additions onto the existing structure, with the closest addition being 33 feet from the ordinary high water mark of the lake for the property described as: Beg 1059.02 feet E & 497.95 feet NE Along Sely Ln of Public Rd of SW Sec Cor TH Cont NE 180; SE 189.99 ft to WTR Edge, Th Swly to Pt SE of POB & NW 279.67 ft to POB; Section 18, TWP 142, Range 37; Forest Township. PID Number 12.0118.000.

Watson explained the application to the Board. The existing cabin is 20 ft by 32 ft with a 12 ft x 12 ft porch. An addition would be added, along with removing, replacing and enlarging the existing screen porch and a new deck would be added. The addition would be a bedroom addition and sunroom.

Elletson questioned how long the Watson's have owned the property. Watson stated that they purchased the property in December 2003 and closed on the property in February 2004.

No one spoke in favor of the application. Speaking in opposition to the application was Ray Vlasak, speaking both as a resident and as a Township Official. Written correspondence was received from:

- Lynette & Ray Vlasak in opposition of the application
- Forest Township Board in opposition of the application
- Bad Medicine Lake Area Association in opposition of the application
- Donald & Judy Rooney in favor of the application
- David Peterson in favor of the application

At this time, testimony was closed.

Further discussion was held regarding the location of the nonconforming structure, which is located in the shore impact zone; the number of additions planned; the size of the addition; the size of the lot and the established building line. Kalil questioned where the hardship of the property was. Kalil stated that the lot is a good size lot and there is room to relocate the structure meeting the required setbacks. Kalil further stated that allowing additions closer to the lake than the existing structure is not in harmony with the intent of the Ordinance. Flottemesch stated that the proposed additions are larger than the existing cabin and there is room to build a cabin in conformance with the Ordinance. Flottemesch stated that a structure can be maintained but this proposal is changing the usability of the structure.

Motion: Kalil made a motion to deny the variance to construct an addition thirty-three (33) feet from the ordinary high water mark of the lake based on the fact that the structure is located in the shore impact zone; the current structure is in front of the established building line; there is no hardship of the property; and this would be a major structural change to a nonconforming structure. Elletson second. All in favor. Motion carried. Variance denied.

EIGHTH ORDER OF BUSINESS: Shirley Solberg. Request a variance to construct an addition 46 feet from the centerline of the township road for the property described as Lots 11 & N 20 ft of Lot 10 Ravenswood Beach; Section 28, TWP 138, Range 41; Lake View Township. PID Number 19.1686.000.

Solberg explained the application to the Board. The cabin was built in the 30's. They would like to add a bedroom and a bathroom, which would be too close to the road.

Flottemesch questioned if there would ever be a garage on the property. Solberg stated that there is already a garage on the property, located across the road. Flottemesch questioned if there would be a need for a garage on the cabin side of the road. Solberg stated there would be no need for a garage on the cabin side of the road. Kalil questioned the lot coverage since there was no chart of individual numbers, just a total percentage.

Solberg stated that her architect arrived at those figures and believes that all hard surfaces were included in that figure.

Speaking in favor of the application was Lake View Township. No one spoke against the application. There was no written correspondence either for or against the application. At this time, testimony was closed.

Further discussion was held. Elletson stated that this house exceeds the setback from the lake and that the road actually separates the property. The lot is in compliance with the impervious lot coverage.

Motion: Oakes made a motion to approve a variance to construct an addition forty-six (46) feet from the centerline of the township road based on the fact that the house meets the required lake setback, impervious lot coverage is below the allowed percentage and the property is separated by the Township Road. Flottesmesch second. All in favor. Motion carried.

NINTH ORDER OF BUSINESS: Raymond Meier. Request a variance to construct an addition 26 feet from the ordinary high water mark of the lake for the property described as: Lot 45 Floyd Lake Beach; Section 15, TWP 139, Range 41; Detroit Township. PID Number 08.0945.000.

Meier and his contractor, Mark Raymond, explained the application to the Board. The roofline would be changed and the 7 ft by 12 ft portion of the concrete patio would be enclosed. There is a leakage problem with the flat roof.

Kalil questioned if the roof problem could be solved without adding the addition. Raymond stated that with a pitched roof, the problem could be corrected. Elletson stated that the application states an addition but does not mention rafters. Johnson stated that the rafters area structural change, which would require a variance.

Flottesmesch stated that new shingles would be maintenance and would be allowed. Reconstructing the roof and changing the roofline is a major structural change.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from:

Bob Roel in favor of the application

Pelican River Watershed in opposition to the application

Floyd Shores Lake Association in opposition to the application

At this time, testimony was closed.

Johnston questioned if the letter signed by Postovit was from Postovit personally or from the lake association. Johnson stated that the letter was from Floyd Shores Lake Association signed by Postovit, Government Liaison Committee.

Elletson stated that this is a nonconforming structure located at least two feet into the shore impact zone and approximately twelve feet in front of the established building line. Elletson further stated that normal maintenance is allowed but what is being proposed is major structural changes. Kalil agreed that the leaking roof may need to be fixed but the addition is a separate issue.

Flottemesch stated that this is a nonconforming structure, which is in front of the string line; maybe there could be a provision to reconstruct the portion of the roof outside of the shore impact zone. Johnston questioned the side yard setback of the structure. Johnston stated that the structure was 8 ft 4 inches from on lot line, but the other lot line was not indicated. Johnston stated that if the lot were 50 ft wide, the house would be approximately 8 inches off the other lot line; which creates another nonconformity. Further discussion was held regarding the nonconforming structure, which is in front of the string line and in the shore impact zone; excessive lot coverage; and the structure too close to the lot line.

Further discussion was held regarding the impervious lot coverage. Raymond stated that they are intending to install a French Drain to accommodate the run of. Flottemesch stated that if the structure were removed, a new structure would have to be out of the shore impact zone and behind the established building line; meet the impervious coverage and meet the side yard setbacks.

Motion: Kalil made a motion to deny a variance to construct an addition twenty-six feet from the ordinary high water mark of the lake based on the fact this is a nonconforming structure partially located in the shore impact zone and in front of the established building line; the structure is located too close to the side lot line; the proposed work is not only an addition but a major structural change; and the impervious material exceeds allowable lot coverage. Elletson second. All in favor. Motion carried. Variance denied.

TENTH ORDER OF BUSINESS: Informational Meeting. The tentative date for the next informational meeting is scheduled for Thursday, August 5, 2004 at 8:30 a.m. at the Planning and Zoning Office.

Since there was no further business to come before the Board, Chairman Johnston adjourned the meeting.

Harry Johnston, Chairman

ATTEST

Patricia Johnson, Administrator