

**Becker County Board of Adjustments
October 14, 2010**

Present: Board Members Jerry Schutz, Jim Bruflodt, Kip Moore, Lee Kessler, Steve Spaeth, Bill Sherlin, and Zoning Staff Debi Moltzan. Member Al Chirpich was absent.

Chairman Bruflodt called the meeting to order at 6:00 p.m. Debi Moltzan took minutes.

Spaeth made a motion to approve the September 2010 minutes with one correction. On the 4th line of the last page of minutes, it should read "Spaeth stated that" instead of 'Spaeth due'. Sherlin second. All in favor. Motion carried.

Bruflodt explained the protocol for the meeting. Spaeth read the guidelines for granting a variance.

FIRST ORDER OF BUSINESS: Joel Donner. Request an after the fact Variance to allow a deck to remain 57 feet from the ordinary high water mark of the lake and ahead of neighboring structural string line for the property described as: Lot 2 Block 1 White Oaks Beach, Section 6, TWP 18, Range 42, Lake Eunice Township. The property is located on Leaf Lake at 17247 North Leaf Lake Road. PID Number 17.1325.000. This application was postponed from the August 2010 meeting.

Joel Donner briefly explained the application. This is an after the fact request and the primary reason for building the deck was the slope and ease of ingress and egress to the house due to the slope. Without the deck, the home is not usable as a lake home. Donner stated that he is willing to remove the boathouse and deck by the lake and construct a native buffer reserving a path to the dock.

Spaeth questioned how much of the lakeshore would be placed into a buffer and how it would be configured. Donner stated that about twenty-five (25) feet would be native buffer, which would be from the middle to the south line. Bruflodt asked how deep the buffer would be. Donner stated it would be twenty-five (25) ft to thirty (30) ft in depth. Discussion was held regarding the location of the buffer, leaving the rest of the lakeshore untouched, a pathway to the dock, width of the path, width of a landing and putting the water from the gutters into some type of catch basin. Discussion was also held regarding the removal of nonconforming structures and restoring the shoreline to lessen the impact on the lake.

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.

Motion: Schutz made a motion to approve a variance to allow a deck to remain fifty-seven (57) feet from the ordinary high water mark of the lake, due to topography, with the stipulation that the deck on the lake and boathouse be removed, 50% of the shoreline be restored with native plants, allowing for a four (4) ft access to the dock area, with a

depth of twenty-five (25) ft to thirty (30) ft and the run off from the roof be diverted into French drains. Spaeth second.

Sherlin stated that he agrees that removal of the deck and boathouse are good things, but that does not eliminate the need to find a hardship. A hardship could not be found at the last meeting and he can't see one now. Sherlin felt that the hardship was created by the previous owner.

A vote was taken with everyone in favor of the motion except Sherlin. Majority in favor. Motion carried.

SECOND ORDER OF BUSINESS: Ray and Marlys Long. Request a Variance to construct an addition onto the side of an existing dwelling that is currently located thirty-five (35) feet from the ordinary high water mark of the lake, due to the setback issues of the existing dwelling. This deviates from a seventy-five (75) ft lake setback and structures located out of the shore impact area for the property described as: Pt Lot 1, Section 9 and Pt Lot 9, Section 4, TWP 139, Range 41, Detroit Township. PID Numbers 08.0122.002 and 08.0061.001. The property is on Big Floyd Lake, at 25751 E Cozy Cove Road.

The Longs explained the application to the Board. The cabin was built in 1978 and is 48 feet from the lake without the deck. The addition would be 16 ft by 30 ft to the east side of the property. The area to the north and east is wooded and the run off from the property runs to the east, which a natural wetland. The septic system is located on the north side of the house.

Spaeth stated that the Board measured thirty-nine (39) feet to the deck and fifty-two (52) feet from the structure from the water's edge and thirty-five (35) feet from the deck to the top of the bank. Spaeth stated that the Board does like to keep all structures out of the shore impact zone. Discussion was held regarding the string line and the fact that the property to the east was vacant.

No one spoke in favor of the application. No one spoke against the application. At this time, testimony was closed and further discussion held.

Brufloft stated that he did not see the need for mitigation since the run off flows to the east into the wetland. Spaeth felt that the ordinary high water mark should be located and the deck should be out of the shore impact zone and would have to be reduced in size if needed. Sherlin stated that there was no hardship, but the standard of practical difficulty applies. The degree and type of nonconformity will be an issue on all the applications before them tonight. This project would not create any damage to the lakeshore. Spaeth stated that the string line would not be a problem if the property was not on a point and if the adjacent property was not vacant and felt the adjacent property to the east is unbuildable. Moore agreed with Sherlin's statements.

Motion: Spaeth made a motion to approve a variance for an addition onto the side of the existing dwelling, due to the size of the lot, with the stipulations that the addition does not go closer to the lake than the existing structure, the ordinary high water mark be located and the deck will have to be altered to out of the shore impact zone, which is thirty-seven and one-half (37.5) feet from the ordinary high water mark of the lake and that all run off from the addition and house be controlled. Moore second. All in favor. Motion carried.

THIRD ORDER OF BUSINESS: Alan and Karen Hefner. Request a Variance to construct a Sauna/shed (water oriented structure) forty-five (45) feet from the side property line due to topography issues, for best placement. This deviates from a water oriented structure being placed within the center twenty-five (25') of the lot as measured along the setback from the ordinary high water level for the property described as: Pt Govt Lot 4 Beg 497.24 of SE Cor; Section 08, TWP 142, Range 37, Forest Township. PID Number 12.0060.002. The property is located on Bad Medicine Lake at 38015 Lloyd Larson Road.

Alan Hefner explained the application to the Board. The structure would be a sauna/storage shed. Hefner stated that he had been misinformed and was under the impression that a permit was not needed if a structure was under a certain size. The location where the shed is located is the most level and no trees had to be removed. The shed is 10 ft by 14 ft. There is brush between the shed and the lake for screening and tucked out of sight from the neighbors. There is also a rock infiltration area near the lake in front of the shed. Hefner's son and friend took the measurement of forty (40) feet from the OHW by one holding the tape and the other one swimming out to the high water mark in the lake. There is a fire pit in the center of the lot, which catches run off from the hill. In this location there are large rocks and boulders that would require large machinery to remove them.

Schutz asked if the shed was on pedestals. Hefner stated that there are 9 - 4" by 4" posts under the shed. At the current shed location, the shed height off the ground is from 0" to 24". If the shed had to be relocated, the height would be 4 ft to 5 ft to keep it level. Kessler questioned if an area for drainage was constructed near the shed. Hefner stated that, when he received word that he needed to cease construction, he quit construction and has not done anything more, however there was a filtering area by the lake.

Barb Christiansen 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 discussion held.

Kessler stated that the topography of the lot would make this location acceptable. Sherlin stated that, on this lot, moving the shed would do more harm than good to the lake and would not gain any preservation, but had a permit been obtained prior to construction, the structure would have been permitted in the center of the lot. Spaeth stated that to be in the center of the lot, the shed would have to move fifteen (15) feet, which would not gain anything and would do more damage.

Motion: Spaeth made a motion to approve a variance to construct a sauna/shed (water-oriented structure) forty-five (45) feet from the side property line due to the topography and that this is a more reasonable location with no negative effect to the property. Sherlin second. All in favor. Motion carried.

FOURTH ORDER OF BUSINESS: Glen and Mary Follett. Request a Variance to construct an addition onto the rear of an existing cabin currently located at forty-four and one-half (44.5) feet from the ordinary high water mark of the lake, due to the setback issues of the existing structure. This deviates from a 100 ft lake setback and structures located out of the shore impact area for the property described as: Pt Govt Lot 2 Beg 985.75' W and 603.27 SW; Section 09, TWP 142, Range 37, Forest Township. PID Number 12.0082.000. The property is located on Bad Medicine Lake at 48320 Old Saw Mill Rd.

Mary Follett explained the application to the Board. They are hoping to turn the cabin into a retirement home. In the winter months, walking down the hill to the cabin is not feasible. The addition is in the least conspicuous location behind the cabin.

Brufloft asked if they had considered taking down the cabin and building on top of the hill. Follett stated that they went through the conditional use permit to construct a retaining wall, which cost them \$26,000, to protect the cabin. They do not want to take out any more trees. Schutz questioned why the guest cabin wouldn't be converted into a year round home. Follett stated that access to the cabin is not desirable because there is a number of stairs from the parking area to the cabin. Kessler stated that if the water continues to rise, the cabin would be in further jeopardy. Follett stated that if the water continues to rise, several homes on the lake will be jeopardized.

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 discussion was held.

Moltzan stated that from the parking area to the guest cabin, there are a number of steps and there is no level area. Spaeth stated that, since the lots had been two lots at one time, under the new state regulations, the property could be split back into two lots and there would be a different situation. Spaeth also stated that expansion needs to be kept out of the shore impact zone and there is room to move back. Sherlin stated that the law is clear – no expansion in the shore impact zone. The intent of the law and the ordinance is to move the structures back. Kessler and Schutz agreed. Moore stated that he did not find this property so he would be abstaining from the vote since he could not make a sound decision.

Brufloft stated that each of them sympathize with the property owners, but as a Board, they must follow the guidelines. Spaeth stated he does not want to give a variance on a structure that is in jeopardy of the rising water and felt that there is room for a new house elsewhere on the property.

Motion: Speath made a motion to deny the application as presented based on the fact that there is adequate room elsewhere on the property to locate a structure that meets the required setbacks. Kessler second. All in favor except Moore, who abstained from voting. Motion carried.

FIFTH ORDER OF BUSINESS: John and Katherine Jenison. Request a Variance to construct an addition onto the side of an existing structure currently located fifty (50) feet from the ordinary high water mark of the lake and ahead of neighboring string line, due to topography issues. This deviates from a 100 foot lake setback and structures located at or behind neighboring string line for the property described as: Pt Lot 8 Beg 1074.57 E of NW Cor; Section 18, TWP 142, Range 37, Forest Township. PID Number 120106000. The property is located on Bad Medicine Lake at 37895 Redtop Rd.

John Jenison explained the application to the Board. The cabin was built in 1947. The closest point of the cabin is 54 feet from the ordinary high water mark of the lake. The cabin is 830 sq ft with a screen porch. Jenison proposes to remove the screen porch and replace it with a great room. They plan on retiring to this location and need more room and are locked into this location due to the location of the septic system. Jenison plan on putting gutters on the house and diverting the water into rain gardens and would work on water control in front of the cabin if needed.

Brufloft questioned the age of the cabin. Jenison stated that it was built in 1947, they bought it in 1978, and no improvements have been made. Brufloft stated that the lot is 470 feet deep and the structure could be relocated.

No one spoke in favor of the application. No one spoke against the application. Written correspondence against the application was received from Forest Township. At this time, testimony was closed and discussion held.

Jenison commented on the Forest Township letter – the addition would not increase the home 1.34 times. Forest Township did not take into consideration that the screen porch was being removed and the addition taking its place.

Spaeth stated that the structure is out of the shore impact zone, but is ahead of string line and there is adequate room to build elsewhere on the property or relocate the structure elsewhere on the property. Brufloft stated that this is the same as the last application, with the exception that the cabin is just outside the shore impact zone. Sherlin stated that it is out of the shore impact zone, but the property has reasonable use and the intent of the ordinance is to bring structures closer to conformity, not intensify them or permanentize the situation and economics is not a consideration for hardships. Schutz and Kessler agreed.

Motion: Sherlin made a motion to deny a variance to construct an addition onto the side of an existing structure currently located fifty (50) feet from the ordinary high water mark of the lake based on the fact that there is reasonable use of the existing structure and the property allows for construction options meeting the required setbacks. Schutz second. All in favor. Motion carried.

SIXTH ORDER OF BUSINESS: Boyd and Elaine Fiske. Request a Variance to construct an addition onto an existing dwelling currently located forty-nine (49) ft from the ordinary high water mark of the lake and ahead of the neighboring stringline, due to setback issues of the existing dwelling and a substandard lot of record. This deviates from a seventy-five (75) feet lake setback and structures located at or behind neighboring string line and request a Variance to construct a detached Garage ten (10) feet from the road right of way due to an undemonstrated hardship of the property. This deviates from a required twenty (20) feet setback for a detached garage for the property described as: Lot 7, Bergquist Beach 5th; Section 27, TWP 138, Range 42, Lake Eunice Township. PID Number 17.0484.000. The property is located on Lake Eunice at 11085 W Lake Eunice Rd.

Gary Fiske, son, and Elaine Fiske explained the application to the Board. The lot is a small lot and they would like to add onto the cabin and construct a detached garage. Kessler questioned the setback of the patio and structure. Sherlin stated that the patio is thirty-five (35) ft back and the structure is forty-nine (49) ft to fifty (50) ft back. Spaeth questioned if the concrete patio and sidewalks were considered in the impervious calculations. G Fiske stated that the concrete patio and sidewalks will be removed and will take out enough of the paver patio to be in compliance. Further discussion was held regarding the amount of structure that was located within the shore impact zone and the amount of impervious coverage.

Schutz questioned how the garage would be entered. G Fiske stated that the main garage doors would be located on the side so the entrance was parallel with the road and there would be a door for the pontoon entrance facing the road. Moore questioned the side yard setback. G Fiske stated that the garage would be seven feet eight inches (7' 8") from the side lot line. Spaeth stated that it appeared to him that the garage would only be big enough for the pontoon and that it appears that there is a driveway to the garage, but no driveway included in the impervious calculations. G Fiske stated that there would be no concrete in the driveway area. Schutz questioned the need for placing the garage ten (10) ft from the road right of way. Fiske stated that they wanted more lawn space between the garage and the cabin. Schutz further stated that if there was a door facing the road, it would invite people to park there and create a safety hazard, if the property is sold, the use could change. G Fiske stated that the garage would still be quite a ways from the road. The Board explained that the setback needs to be from the road right of way instead of the driving surface.

Further discussion was held regarding the amount of impervious coverage of the lot, the structure setbacks and entrance to the proposed garage. Schutz questioned if the requests were to be acted on as one or separately. Sherlin stated that they were requested separately and should be acted upon separately.

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.

Sherlin stated that the cabin is only ahead of string line because the adjacent lot is vacant. If that lot is built on, that structure will be in line with this one and the one on the other side of the vacant lot, therefore, they will all line up. The structure is out of the shore impact zone. Sherlin stated that he is opposed to the garage location, but the addition is reasonable use in that neighborhood. Schutz stated that he was in agreement with the cabin and as far as the garage; the location should either be twenty (20) ft and then could have a door facing the road or ten (10) ft with no door facing the road.

Spaeth and Sherlin felt there was room to move the garage further from the road. Spaeth stated that people deserve a garage, but this size is stretching the limits with the amount of impervious coverage. Even though the driveway is now grass, after time it becomes compacted and is impervious. Sherlin stated that the Zoning Office does calculate a driveway twelve (12) ft wide from the right of way to the structure if the land owner does not provide driveway measurements. Spaeth stated that a further setback means more impervious for a driveway. Sherlin stated that a garage too close to the right of way is a safety hazard.

Motion: Sherlin made a motion to approve a variance to allow an addition onto the existing structure based on the fact that it is a reasonable use and practical difficulty exists and is worthy of consideration with the stipulation that all structures must be located outside the shore impact zone. Spaeth second.

Further discussion was held regarding what was to be allowed within the shore impact zone, impervious coverage. Sherlin stated that the Board could make them remove the boathouse, which was just rebuilt by permit, but that would not put the Board in a favorable position.

Sherlin amended his motion to say: approve a variance to allow an addition onto the existing structure based on the fact that it is a reasonable use and practical difficulty exists and is worthy of consideration with the stipulation that the ground level patios and sidewalks be removed and no other structures be placed in the shore impact zone except the boathouse. Spaeth seconded the amended motion. All in favor. Motion carried.

Schutz then made a motion to deny a variance to allow a detached garage ten (10) feet from the road right of way based on the fact that there is room to place a garage meeting the required setbacks. Sherlin second. All in favor. Motion carried.

SEVENTH ORDER OF BUSINESS: James Bjorklund. Request a Variance to construct an addition onto the rear of an existing dwelling currently located nine (9) ft from the ordinary high water mark of the lake and four and one half (4.5) feet from the side property line, due to setback issues of the existing structure and a substandard lot of record. This deviates from a 100 ft lake setback and structures located out of the shore impact area for the property described as: Lot 15, Haugen Beach; Section 30, TWP 138, Range 42, Lake Eunice Township. PID Number 17.0735.000. The property is located on Big Cormorant Lake at 17196 Haugen Beach Road.

Bjorklund explained that they are proposing a 12 ft by 22 ft addition onto the back of the existing cabin. When the cabin was originally built, the cabin was over one hundred (100) feet from the lake, but they have lost that much shoreline. Bjorklund stated that they are willing to remove the deck in front of the home and install gutters, downspouts and rain barrels. Sherlin questioned the size of the lot in relation to the copy of the plat enclosed in their packet. Bjorklund stated that the water has come up that much over the years and that approximately one hundred (100) feet out from the cabin; the water is only 5 ft deep.

Moore asked if they have considered moving the structure back, at least out of the shore impact zone. Bjorklund stated that they cannot meet the one hundred (100) ft setback.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Robert Rosenvold who was in favor of the application and Cormorant Lakes Watershed District, opposed to the application. At this time, testimony was closed and further discussion was held.

Spaeth stated that the entire house is located within the shore impact zone and there is adequate room to move it out of the shore impact zone and no need to grant a variance. Sherlin agreed. Brufloodt stated that if a variance was granted, the setbacks of existing structures will never increase. Moore stated that it is unfortunate that several cabins are that close to the lake. Schutz stated that the decision of the Board affects the future and he felt that this request should be denied and the structure moved back. Sherlin stated that he believes that the shore impact zone is an objective standard and the Board is not forcing anyone out, just denying the expansion. The property has reasonable use and reasonable use will continue.

Motion: Spaeth made a motion to deny the variance to construct an addition onto the rear of an existing dwelling currently located nine (9) ft from the ordinary high water mark of the lake and four and one-half (4.5) feet from the side property line based on the fact that there is adequate room to build and expand outside the shore impact zone. Schutz second. All in favor. Motion carried.

EIGHTH ORDER OF BUSINESS: Mark and Linda Lanctot. Request a Variance to construct an addition and second story onto existing dwelling currently located seventeen (17) feet from the ordinary high water mark of the lake and fifteen (15) feet from the road right of way, due to the substandard sized lot of record. This deviates from a 100 ft lake setback, structures located out of the shore impact area and dwellings located forty-five (45) feet from the road right of way for the property described as: Lot 1 and Restricted Drive, Block 1, Summer Island. PID Number 17.1147.000. The property is located on Leaf Lake at 15416 Summer Island Rd.

Lanctot explained the application to the Board. The cabin was built in the 1940's and they purchased it in 2005. The property is a narrow pie shaped lot with a 570 sq ft house and 85 sq ft bunkhouse. They would like to tear down the house and bunkhouse and construct a new two story house that would have a 645 sq ft footprint. Impervious

coverage would actually decrease by 10 sq ft. Other than the size and configuration, the new home would go in the same location or slightly west, which would gain a couple of feet further from the lake. The garage and shed would be left in the current location and maintained, but is open to relocating the garage if needed.

Spaeth questioned if the house was actually an old trailer. Lanctot stated that it was a stick built structure, but had been added to in the past. Sherlin asked for clarification on the size. Lanctot stated that the new home would be five (5) feet longer than the existing, making the addition 5 ft by 15 ft, with a second story. Schutz asked if Lanctot was willing to relocate the garage and shed. Lanctot stated that he would be open to that suggestion. Brufloft stated that by now Lanctot should understand how the Board feels about structures in the shore impact zone.

Speaking in favor of the application was Bruce Danielson. Spaeth questioned if the two story structure would block the view of the people across the road. Danielson stated that the people across the road would still be higher than this structure. Schutz questioned if the new structure would be built on the existing foundation. Danielson stated that the old foundation would be removed and the new structure on a floating slab.

No one spoke against the application. Written correspondence was received from Cormorant Lakes Watershed District in opposition to the application and Mike and Linda Lyman in favor of the application. At this time, testimony was closed and further discussion was held.

Spaeth stated that this is a legal lot of record even though it is substandard in size. With a variance, the other structures could be removed as stipulations; on the other hand, the existing structure may be the only reasonable use for that property. Sherlin stated that a variance had to be granted for the placement of the well. Spaeth stated that if they tried to get the structure out of the shore impact zone, it would be on the road. Schutz stated that there is no place to go on that lot; the setbacks cannot be improved by more than a couple of feet. Sherlin stated that they could rebuild the same size in the same location.

Further discussion was held regarding the size of the property, the location of the structures, removal of all structures, reasonable use of the property, and expansion of the structure.

Motion: Sherlin made a motion to deny the variance to construct an addition and second story onto existing dwelling currently located seventeen (17) feet from the ordinary high water mark of the lake and fifteen (15) feet from the road right of way based on the fact that the existing structure is reasonable use for the property and expansion would be against the intent of the law and the ordinance. Spaeth second.

Schutz asked for clarification on the motion. Schutz stated that if the variance is denied, the other buildings would be allowed to remain. Spaeth stated that it would be nice to have the other structures eliminated, but it is not in the best interest of this property.

A vote was taken with everyone voting in favor of the motion except Schutz. Majority in favor. Motion carried.

NINETH ORDER OF BUSINESS: Informational Meeting. The next informational meeting is scheduled for Thursday, November 4, 2010 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, Schutz made a motion to adjourn the meeting. Spaeth second. All in favor. Motion carried. Meeting adjourned.

Jim Bruflo, Chairman

ATTEST

Patricia L. Swenson, Zoning Administrator