

**Becker County Board of Adjustments
September 10, 2015**

Present: Board Members Lee Kessler, Harry Johnston, Jim Kovala, Roger Boatman, Steve Spaeth, Jim Brufloft and Zoning Staff Debi Moltzan.

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

Kovala made a motion to approve the minutes from the August 13, 2015 meeting with one correction (remove a duplicate phrase of 'the size of the lot' from page 1). Spaeth second. All in favor. Motion carried.

Brufloft explained the protocol of the meeting and Vice Chairman Spaeth read the criteria in which a variance can be granted.

FIRST ORDER OF BUSINESS: Helen Williams. Request a Variance to create twelve (12) substandard riparian lots. Each lot created would encompass the existing structures and existing long term leases for the property described as: Tax ID number: 190582000, LOT 3 LESS .60 AC IN SE COR; Section 30, TWP 138, Range 41, Lake View Township. This application was tabled by the applicant at the June 2014 public hearing. The property is located on Lake Melissa at 20359 Roosevelt Beach.

This application has been tabled by the applicant.

SECOND ORDER OF BUSINESS: Kathleen A. Nelson, LLP. Variance to construct an attached garage twelve (12) feet from the township road right of way instead of the required twenty (20) foot setback due to setback issues for the property described as: Tax ID number: 191059000, LOT 1 NE OF LINE PAR TO & 97' NE OF SW LINE LOT 1 DAK BCH 1ST ADD & LOT 2 LESS TRI IN SW COR, Block 1, Dacotah Beach; Section 28, TWP 138, Range 41, Lake View Township. The property is located at Lake Melissa at 11121 Dakotah Beach Road.

Roger Nelson explained the application to the Board. The existing storage shed would be removed and a new attached garage constructed in its place. The impervious coverage would only increase 3 ft by 24 ft or 72 sq ft due to concrete between the house and storage shed. The garage would be 14 ft from the road right of way.

Spaeth asked what the practical difficulty was. Nelson stated that they wanted a garage so they could stay out of the elements, so they don't have to walk on the snow and ice.

Brufloft reiterated that a practical difficulty needed to be proven, that variances could not be granted arbitrary or capricious.

Spaeth questioned how close the house was to the ordinary high water mark of the lake. Nelson stated that it was right around 100 feet from 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 was held.

Spaeth stated that the proposed garage is too close to the right of way, but several of the garages in that area are too close to the road and the proposed garage is in harmony with the area, but what is the practical difficulty. Brufloft stated that the request is not excessive. Spaeth stated that there is no room to enter the garage from the side. Boatman stated that they like to see twenty (20) feet from the right of way to park, but this is a minimal traveled road and the driving surface if further away.

Motion: Spaeth made a motion to approve a variance to allow an attached garage twelve (12) feet from the road right of way based on the fact that the garage is in harmony with the area, due to the location of the driving surface of the road the right of way has been used as parking, and the use of the area is not changing. Boatman second. All in favor. Motion carried. Variance approved.

THIRD ORDER OF BUSINESS: Victor & Jean Rolle. Request a Variance to construct a garage twelve (12) feet from the rear property line instead of the required twenty (20) feet due to the depth of the garage. Legal Land Description: Tax ID number: 191713001, PART OF LOT 15 LYING E OF LOTS 7-10 & E OF N1/2 OF LOT 11, RAVENSWOOD 2ND ADD; Section 28, TWP 138, Range 41, Lake View Township. The property is located across the road from Lake Melissa at 11786 Ravenswood Beach Road.

Victor and Jean Rolle explained the application to the Board. They would like to construct a garage on the back lot and the garage would be 24 ft by 24 ft. The lot is 225 feet wide but only 50 to 60 feet deep. The garage would meet the required twenty (20) foot right of way setback but only be twelve (12) feet from the rear lot line. Behind the property there is a steep hill which will prevent anyone from building behind the garage. The proposed garage will be in line with the other garages in the area.

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.

Bruflodt stated that the hill can't be moved and no one will build behind this structure. Johnston stated that the proposed garage does meet with right of way setback and the hill presents a topography issue. Spaeth stated that with the depth of the lot, the required setbacks cannot be met.

Motion: Kessler make a motion to approve a variance to allow a garage twelve (12) feet from the rear lot line due to the unique circumstances of the property and the proposed garage is in harmony with the surrounding area. Kovala second. All in favor. Motion carried. Variance approved.

FOURTH ORDER OF BUSINESS: Stein Properties, LLC. Request a Variance to construct a storage shed twenty (20) feet from the side property line instead of the required fifty (50) feet from an industrial property line that abuts of a different zoning district due to the topographical layout of the property for the property described as: Tax ID number: 210292000, PT NE1/4 OF NW1/4: COMM NE COR TH S 120.12', TH W 386.10' AL SLY ROW MN TRK HWY 34, TH WLY 101' TO POB; TH ELY 286.14', E 19.48', S 130.86', E 181.50' TO E LN NE1/4 NW1/4, S 519.36' W 250', N 160', W 247.09', NW 70.63', N 156.94', NE 99.75', TH N 200' TO POB REF: 21.0293.000; Section 29, TWP 140, Range 36, Osage Township. The project is located in the Townsite of Osage at 54485 State Hwy 34.

Steve Pachel, owner of Stein Properties, explained the application to the Board. There was an existing variance that was specific to one building to be twenty (20) feet from the side lot line. There is an optimal spot for another storage shed which would also be twenty from the east line. Due to the topography, the structure could not be moved further to the west. The area to the west contains a low spot that collects the run off from this property and the portion of the prairie north of Hwy 34.

Kessler questioned if this building would be connected to the existing building. Pachel stated that is in the future plans. Spaeth questioned the water control of this building, the existing building and what would happen if the two buildings were connected. Pachel stated that the run off from the existing building is diverted into the low area, the new building would also be diverted to this low area and if the two buildings are connected, the water would be diverted around the new building into the low area.

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

Kovala stated that he talked to Don Stone, another adjoining neighbor, who did not have a problem with the application. Kovala further stated that the area is primarily industrial, so this would be a good fit with the area, the structure cannot be moved further to the west due to the topography and the water retention area.

Motion: Kovala made a motion to approve a variance to allow structures twenty (20) feet from the east property line based on the fact that the structure cannot be moved further to the west due to the water retention area, which if changed or altered could cause flooding with the stipulation that water control be used to prevent flooding to the easterly properties. Spaeth second. All in favor. Motion carried.

FIFTH ORDER OF BUSINESS: Jan Morin. Request a Variance to construct a dwelling and garage one hundred (100) feet from the ordinary high water mark of the lake and forty-eight (48) feet from the centerline of the road due to setback issues for the property described as: Tax ID number: 170633000, LOT 12; Block 3, BLUE WATER BAY, Section 19, TWP 138, Range 42, Lake Eunice Township. The property is located on Arrow Lake at the intersection of East Arrow Lake Road and Blue Water Bay Road.

Morin explained the application to the Board. The lot is on Arrow Lake, a natural environment lake. If she had to adhere to the 150 ft setback from the lake and 53 ft setback from the centerline of the road, there would be very little room to build. The proposal would be 100 ft from the lake, 50 ft from Blue Water Bay Road and 41 ft from East Arrow Lake Road.

Kessler asked Morin how long she owned the property and if she realized there were limitations on the property. Morin stated that she has owned the property since the early 2000's and knew there were limitations but the regulations changed for the road setbacks, which were in her favor.

Brufloft stated that this is a platted lot and the setbacks should be from the right of way instead of the center line of the road. Kovala felt that the biggest issue is that the setback is not far enough away from a natural environment 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 was held.

Boatman stated that 100 ft setback from a natural environment lake was not enough in order to protect the lake. Spaeth felt that the road setback should be measured from the right of way instead of the driving surface. Johnston felt that the request was modest and that this is a lot of record. Moltzan stated that the DNR was at the site and determined that the proposed house was about 108-109 feet from the ordinary high water mark of the lake.

Motion: Boatman made a motion to deny the variance to construct a dwelling and garage one hundred (100) feet from the ordinary high water mark of the lake due to the proximity to the natural environment lake there is not enough protection to the lake and wetlands. Kessler second. All in favor. Motion carried. Variance denied.

SIXTH ORDER OF BUSINESS: Lannie & Ann Runck. Request a Variance to construct addition fifty (50) feet from the edge of the county road and forty-six (46) feet from the ordinary high water mark of the lake for the property described as: Tax ID number: 170776000, LOT 1 & E 45' OF LOT 2, ISTHMUS BEACH 3RD; Section 27, TWP 138, Range 42, Lake Eunice Township. The property is located on Lake Maud at 20630 County Hwy 22.

Lannie and Ann Runck explained the application to the Board. They would like to relocate to the lake and need additional space. They would like to add onto the existing home, enlarging bedrooms, adding a bathroom and adding onto the garage. They can't go closer to the lake. A portion of the existing garage would be used to enlarge the house and add onto the garage toward the road to enlarge the existing garage.

Spaeth stated that the Board measured twelve (12) feet from the county road right of way to the addition. Kessler questioned if they knew that they exceeded lot coverage when they applied for the variance. Runck's stated that they would be willing to remove concrete if they had to. Brufloft stated that the property is a very small lot in which the current building is located in the shore impact zone, too close to the road right of way and is over lot coverage. Lannie Runck questioned if they tore the building down if they would have to move it back. Brufloft stated that it would have to be moved out of the shore impact zone and would require a variance to rebuild. Spaeth stated that the total project could not exceed 25% impervious coverage, which they are not at 24% and would be at 30% with the improvements.

No one spoke in favor of the application. No one spoke against the application. Kevin Lefebvre, contractor, asked the Board if the addition started out of the shore impact zone, if it would help the situation. Spaeth stated that the existing structure is in the shore impact zone and any addition would be adding onto a nonconforming structure in the shore impact zone. Lefebvre stated that concrete could be removed to reduce the impervious. Brufloft questioned why the zoning staff report stated that the lot coverage was at 38%. Moltzan stated that from the information in the file, the lot was actually smaller than the lot area the Runck's were using for the calculations. The exact lot size would have to be determined to calculate the correct impervious coverage.

At this time, Runck's asked to table their application and come back at a later date with a new plan.

SEVENTH ORDER OF BUSINESS: Ralph & Phyllis Sullivan. Request a Variance to construct a second (2nd) story addition onto a nonconforming structure that is sixty-one (61) feet from the ordinary high water mark of the lake due to setback issues for the property described as: Tax ID number: 170888000, LOT 9, MAPLE BEACH; Section 22, TWP 138, Range 42, Lake Eunice Township. The property is located on Maud Lake at 20067 E. Maud Lake Road.

James Erickson, representative for the Sullivan's explained the application to the Board. They would like to raise the roof on the back portion of the cabin to match the roofline of the existing front portion of the cabin. The bottom story would stay in the same footprint. The practical difficulty is that the structure is in stringline with the neighboring cabins, but does not meet the setback average plus twenty (20) feet; the location of the septic system and the location of the existing shade trees. Erickson stated that he has been in contact with Marsha from Becker County Soil and Water Conservation to come up with a shoreline restoration plan and to remove the railroad ties. The front portion of the cabin is sixty-one (61) and sixty-two (62) feet from the ordinary high water mark of the lake.

Spaeth questioned what was different between this application and the application from 2014. Erickson stated that the 2014 request was to add four (4) feet onto the ground floor portion of the building, not stay in the same footprint.

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.

Kessler stated that the structure would be expanding upward, but not creating any more run off. Brufloft stated that they had voluntarily contacted SWCD for a mitigation plan. Spaeth stated that the structure was located out of the shore impact zone and in line with the adjoining structures.

Motion: Spaeth made a motion to approve a variance to allow a second story addition onto the existing nonconforming structure based on the size of the lot and with the stipulation that a storm water management plan and shoreline restoration plan be prepared by the Becker County Soil and Water District and the plan be implemented. Kessler second. All in favor. Motion carried. Variance approved.

EIGHTH ORDER OF BUSINESS: Informational Meeting. The next informational meeting is scheduled for Thursday, October 1, 2015 at 7:00 am in the Third Floor Meeting Room of the Original Courthouse.

approved

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

Jim Brufloft, Chairman

ATTEST

Eric Evenson-Marden, Zoning Supervisor