1 2	Becker County Board of Adjustments October 12th, 2017
3	October 12th, 2017
4 5	Present: Members: Chairman Jim Bruflodt, Jim Kovala, Harry Johnston, Steve Spaeth, Lee Kessler, Roger Boatman, Brad Bender, and E911/Zoning Technician Rachel Bartee.
6 7 8	Chairman Jim Bruflodt called the meeting to order at 7:00 p.m. E911/Zoning Technician Rachel Bartee recorded the minutes.
9 10 11	Introductions were given.
12 13 14	Kovala made a motion to approve the minutes for the September 14th, 2017 meeting. Johnston seconded. The motion passed unanimously. Motion carried.
15 16 17	Bruflodt explained the protocol for the meeting and Spaeth read the criteria for which a variance could be granted.
18	OLD BUSINESS:
19 20 21 22 23 24 25 26 27	FIRST ORDER OF BUSINESS: APPLICANT: Dustin & Angie Holte Project Location: 16005 221 st St., Audubon, MN 56511 Tax ID Number: 07.0164.000 APPLICATION AND DESCRIPTION OF PROJECT: Request a variance to construct a dwelling and attached garage, to be located at one hundred thirty-three (133) feet from the ordinary high water mark of the lake, deviating from the required setback of one hundred fifty (150) feet from a natural environment lake. This application had been tabled from the September 14 th , 2017 meeting by the applicant.
28 29	Bartee presented the application.
30 31 32 33 34	Dustin and Angie Holte were present. Dustin Holte explained the application for a dwelling and attached garage, to be located at one hundred thirty-three (133) feet from the ordinary high water mark of the lake deviating from their original request of one hundred seventeen (117) feet from the OHW.
35 36 37	Kovala noted that they chose to reduce the size of the house to $30x60$ feet and slightly increase the size of the garage. Bruflodt noted that Holte is closer to meeting the setbacks.
38 39 40 41 42	Bender asked if the park model would be removed. Holte replied yes. Kessler noted per the sketch provided the house appears to be in front of the park model. Holte replied in reality it is closer, the proposed garage is almost touching the current park model, adding it will have to be removed before the garage is completed. Kessler stated it should be stipulated in the motion the park model is to be removed within one year of the permit approval. Holte asked when the

43 permit would be approved. Bartee advised that they have 2 years to act on variance before it is 44 void.

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46 Boatman stated the measurements at the Board tour were one hundred thirty-three (133) feet and 47 two hundred and thirty-three (233) feet from the ordinary high water mark on either side. Holte 48 agreed.

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50 Kovala stated this is a unique building site on the top of a hill.

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52 No one spoke in favor of the application. No one spoke against the application. There was no 53 written correspondence for or against the application. At this time, testimony was closed. 54 Chairman Bruflodt opened the matter for disussion by the Board.

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56 Spaeth stated he thinks the request should be approved as presented now that the Board has adequate information to know exactly what is being requested and what they are approving. Spaeth noted the previous application request and site markers were not clearly defined adding it 59 is now clear there is no alternative.

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Motion: Spaeth made a motion to approve the application as presented, to construct a dwelling and attached garage, to be located at one hundred thirty-three (133) feet from the ordinary high water mark of the lake, deviating from the required setback of one hundred fifty (150) feet from the OHW of a natural environment lake, due to setback issues, with the stipulation to control all water runoff and the old park model is removed within one year of issuance of the permit. Findings include it is a buildable lot of record and the proposal fits very well for the irregular shape lot and the topography.

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Boatman second. All in favor. Motion carried. Variance approved with stipulations.

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NEW BUSINESS:

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73 SECOND ORDER OF BUSINESS: APPLICANT: Debra & Jeffery Baer Project Location: 74 Co Hwy 6, Lake Park, 56554 MN 56570 **LEGAL LAND DESCRIPTION:** Tax ID Number: 75 17.1217.000 APPLICATION AND DESCRIPTION OF PROJECT: Request variance to 76 construct a dwelling, to be located twenty-two (22) feet from the right of way from a county 77 highway, deviating from the required setback of forty-five (45) feet from the right of way for a 78 county highway.

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80 Bartee presented the application.

- 82 Debra and Jeffery Baer were present. Baer explained the application to construct a dwelling, to
- 83 be located at twenty-two (22) feet from the right of way of a county highway. Baer stated they

currently have a mobile on the site however they have out grown this space. Baer explained the proposed dwelling will be 30x48 feet and sit one hundred and three (103) feet from the OHW and twenty-three (23) feet from the ROW.

Spaeth ask why Baer couldn't do anything else that would meet the setbacks. Debra Bare replied their only option was to build in the exact footprint of the current 12x28 foot structure without the ability to expand upwards. Baer added per the setback requirements they have to be one hundred (100) feet back from the lake. They are not able to attempt setback averaging plus twenty (20) because they have no neighbors to the west side, preventing them from moving back from the road towards the lake. Spaeth asked why 12 x 28 was not suitable for them. Baer said no, they have out grown the small mobile.

Spaeth stated with all of the structures you have down by the lake the proposal does not appear to alleviate any of the threat on the water. Baer stated the shed is not on our property, it is on the neighbors and the deck is permeable, there is nothing underneath it. Boatman asked if they would be willing to move anything. Baer replied they had not considered moving any of the structures. Spaeth asked if there will eventually be a deck on the new house. Baer replied no, they do not plan to have a deck on the house, as they have a deck down by the lake. Spaeth advised that there would not be room for one if they decided they wanted one later.

Kessler asked if they would consider moving closer to the water due to the traffic on the highway. Kessler added the highway is exceptionally busy in the summer months. Baer replied yes, they would be willing to move closer to the water. Kessler asked if the zoning office had made them aware of the one hundred (100) foot setback requirement. Baer replied yes, as they had originally wanted to be closer to the water. Spaeth asked if they had a neighbor to try setback averaging with. Baer replied they had no neighbor to the west so they were not able to move back far enough. Boatman stated if they moved the proposed house back eighteen-twenty (18-20) feet then they would be at eighty (80) feet from the OHW. Baer replied they would be willing to do that. Spaeth stated the Board is concerned about the safety issue from the road.

No one spoke in favor of the application. No one spoke against the application. There was no written correspondence for or against the application. At this time, testimony was closed. Chairman Bruflodt opened the matter for disussion by the Board.

Spaeth stated he felt it was a good proposal to move the house back twenty (20) feet and grant a variance at eighty (80) feet from the OHW and a variance of forty-two (42) feet from the ROW. Spaeth added even though the property narrows as you move back, this should allow for plenty of room to be the required five (5) feet back from the side property lines as required on this property. Bruflodt stated if not, they may have to shrink the house down to fit the new setback.

Kessler stated there are rail road ties and a deck down by the lake. Kessler asked if they were planning on replacing these structures or adding steps. Baer replied there is not back fill there at all. Spaeth mentioned removing the deck. Baer replied down by the lake the rail road ties are not supporting any earth, adding the deck has been there since they bought the property. Spaeth asked if they requested to replace the deck would they be able to, or just replace the top boards. Bartee replied per the ordinance they would be allowed to replace in the exact same footprint in-house. Bruflodt noted that it will have to be removed or replaced eventually. Kovala added this would have to be accomplished in the same footprint.

Bruflodt stated they would have to deny the application as pesented and add our own verbage.

Johnston noted that the 30x48 dwelling may have to be reduced in size inorder to be moved back twenty (20) feet to meet the side lot setbacks. Johnston noted the new setback distance should attempt to accommodate the requested structure size. For example requiring them to move back ten (10) or twelve (12) feet instead of twenty (20) so they can keep the dwelling the same size. Spaeth stated they have nine (9) feet of side yard in excess, so it may be ok. Spaeth added they are only required to be at five (5) feet from the side property line as this is a narrow lot, at or under fifty (50) in width. Spaeth stated if the house is to wide to move back then they will have to shrink it down. Johnston stated he did not agree they should have to shrink the house down. Bender asked Johnston if he would be ok with moving the structure back ten (10) feet. Johnston replied he would be ok with the distance that would allow them to maintain their requested structure size. Bruflodt stated the applicatant must meet whatever guidelines that we give them. Bruflodt gave an example we could approve a building area within setbacks set at thirty-two (32) feet on the north side and forty-four (44) feet from the south side and allow them to build what they can with in those setbacks.

Kovala asked how busy the road was. Boatman said it is very busy in the summer months. Johnston stated if what we determine to the revised setback to be at twenty (20) feet and they could have the size dwelling they proposed at eighteen (18) feet we should consider giving them those two (2) feet to allow them to have the size they want. Spaeth stated the owners would have to then table their application and come back once they verified those measurements, or we can grant the variance as revised and not worry about their dwelling size. Kessler stated after reviewing the sketch and grid provided it appears to be very accurate. The seven (7) feet and the twelve (12) feet are exactly what was measured. Kessler stated based on the grid provided in the proposal if they move the dwelling back twenty (20) feet they would have twelve (12) and four (4) feet for a total of sixteen (16) feet, which would well allow then the five (5) foot setback on either side. Johnston agreed if this was accurate he would be ok with the twenty (20) foot revision. Bruflodt stated he felt better about the revision, adding he did not want to design it for them.

Baer stated they had considered moving closer to the OHW originally but went closer to the road when they realized they had to meet the one hundred (100) foot setback. Boatman added that moving it twenty (20) feet closer would not put them any closer to the water than the neighbors. Baer agreed it would not.

Motion: Kessler made a motion to deny the application as presented to construct a dwelling, to be located twenty-two (22) feet from the right of way from a county highway. With a motion to approve as revised to construct a dwelling, to be located at eighty (80) feet from the OHW of the lake and forty (40) feet from the right of way from a county highway, deviating from the required setback of forty-five (45) feet from the right of way of a county highway and one hundred (100) feet from the OHW of a recreational development lake, due to the shape of the lot. Stipulations include all side property setbacks must be met at five (5) feet and all drainage must be directed toward the road.

Johnston second. All in favor. Motion carried. Variance approved with stipulations.

THIRD ORDER OF BUSINESS: APPLICANT: Kayla & Josh Swangler Project Location: 21246 Co Hwy 29 Rochert, MN 56578 Tax ID Number: 10.0006.001 APPLICATION AND DESCRIPTION OF PROJECT: Request a variance to construct a detached garage, to be located at eighty (80) feet from the centerline of a county highway, deviating from the required setback of ninety-five (95) feet from the centerline for a county highway, due to setback issues.

Bartee presented the application.

Josh Swangler was present. Swangler explained his application to construct a detached garage, to be located at eighty (80) feet from the centerline of a county highway. Swangler stated that after the Board came out for the tour he located the missing property pin. The Board was provided with photos and updated sketches Swangler provided to the Zoning office after the tour. Swangler stated the pin on the hill was put there by another owner; the northeast pin he located was correct and certified. Spaeth questioned the northeast pin. Swangler stated yes, the northeast pin, it is located at thirty-six (36) feet from the ROW. Swangler stated he needed four (4) more feet to meet the required ROW setback of forty-five (45) feet or fifteen (15) more feet to meet the required setback of ninety-five (95) feet from the centerline of a county road. Swangler added he measured from the most northeastern pin from the road.

Spaeth asked to verify the variance request is for thirty-six feet from the ROW. Swangler replied he needed four more feet because of the angle at the road. Swangler stated the closest would be twelve (12) feet from the northeast pin. Spaeth asked how far he wants to be from the ROW to the shed. Swangler stated he would be eighty (80) feet from the centerline. Spaeth asked how far he would be from the ROW. Swangler asked if he could be forty-five (45) feet from the ROW.

Spaeth asked what Swangler's hardship/practical difficulty is, as he has a good sized lot, adding generally speaking the Board deals most commonly with substandard lots. Swangler replied power comes into his property at the top of the hill on the south end of the house so he had to build the shed on the right hand side of the house. Swangler stated he cannot place in flush with the house as there is a window well there and the garage would end up pie shape.

- Bender asked to clarify if Swangler just needed to be two (2) feet from the northeast corner.
- Swangler replied, no, he needed to be fifteen (15) feet, adding the pin is at thirty-six (36) feet.
 - Swangler noted he would also like to save the trees on that end of the lot.

- No one spoke in favor of the application. No one spoke against the application. There was no written correspondence for or against the application. At this time, testimony was closed.
- 217 Chairman Bruflodt opened the matter for disussion by the Board.

Kovala asked if Swangler intended to put sleeping quarters in the proposed structure. Swangler replied no, it will be used for storing toys.

Spaeth stated he believed the proposal was reasonable, deviating only slightly from the required setback. Spaeth noted they were not intending on backing out on to the road as the intended entrance was to the south. Bruflodt stated from what he has seen in the past few years he appears closer. Spaeth asked why such a variance on such a large lot, adding he could move the well. Spaeth stated the practical difficulty here is the location the original owner placed the house and put the well. Spaeth stated he believed the proposal was a good fit for the property.

Motion: Spaeth made a motion to **approve** the proposal as presented to construct a detached garage, to be located at eighty (80) feet from the centerline of a county highway, deviating from the required setback of ninety-five (95) feet from the centerline for a county highway, due to setback issues, based on the fact a structure will only deviate fifteen (15) feet from the required setback, not making it a safety hazard and trying to build on another portion of the lot would not be beneficial.

Kovala second. All in favor. Motion carried. Variance approved.

FORTH ORDER OF BUSINESS: APPLICANT: Charles Frundt Project Location: 25267 Park Trail Osage, MN 56570 LEGAL LAND DESCRIPTION: Tax ID Number: 21.0414.000 APPLICATION AND DESCRIPTION OF PROJECT: Request an after the fact variance to construct a fire ring & patio, to be located at fifty-five (55) feet from the ordinary high water mark of the lake, deviating from the required setback of one hundred (100) feet from the OHW on a recreational development lake, due to setback issues, lot size, & topographical issues.

Bartee presented the application.

Charles and Rita Frundt were present. Frundt explained the application for an after the fact variance to construct a fire ring & patio, to be located at fifty-five (55) feet from the ordinary high water mark of the lake. Rita Frundt explained the property has already been worked on and completed, adding at the time they did not realize they needed to go to Planning and Zoning for that type of work.

Bruflodt asked how long the fire pit and patio had been there. Frundt replied five-six years. Kovala stated it was a very nice fire pit but it is not meeting the required setbacks, adding that because it is grouted all of the water runoff would go right down to the lake. Rita Frundt stated they did not construct the structure maliciously. Frundt added there is a very steep drop to the lake there, adding they recently added railings as a safety feature. Frundt stated previously there was a burning area there from the builder. Rita Frundt stated the area was so slanted down Charles Frundt had fallen in it at one point, so they decided to make it flat for safety reasons. Frundt stated they hired a landscaper from Park Rapids to complete the project. Boatman asked why they had not applied for a permit at that time, adding they needed to be thirty (30) feet back from the bluff. Frundt replied they did not believe they needed a permit because it is not a structure and the contractor stated they did not need one. Boatman replied it is the owner's responsibility to check that out. Bruflodt stated the patio is considered a structure as it sheds water. Bruflodt added there is a fifty-two (52) foot drop there, it is a bluff.

Kessler asked what the foundation of the patio is. Frundt replied they were not certain as they live 300 miles away from the cabin and were not present when the construction was taking place. Kessler stated it appeared to be some type of grout in between the rocks that could easily be lifted out. Frundt stated that some of the grout has already lifted up. Kessler asked if they would take it all out. Kessler explained if the grout is completely removed it would then be strategically placed flag stone and would be considered landscaping, not a patio, which would not require a permit. Kessler added if the grout is removed there would be no need for a variance. Bruflodt stated if the rubber grout is removed the water would be able to soak in and would be considered permeable. Frundt replied she was unsure what was under the stones. Bruflodt stated if it was sand it would not cause a problem because the rocks are heavy. Frundt asked if they could keep the flag stone. Bruflodt stated some sand may come up when it rains but it would be impervious.

Spaeth asked if they would like to table the application to make sure it is completed in case they need to come back at a later date or if there are issues with the grout removal. Bartee stated Frundt would have to follow up with the Zoning office for a post inspection after the grout was removed.

At this time, the Frundt's asked to table their application to revisit the site to determine if the grout can be successfully removed.

FIFTH ORDER OF BUSINESS:

APPLICANT: Ryan & Sarah Anderson LEGAL LAND DESCRIPTION: 21631 Co Hwy 32 Rochert, MN 56578 Tax ID Number: 10.0681.000 APPLICATION AND DESCRIPTION OF PROJECT: Request a variance to construct a dwelling and attached garage, to be located at forty-seven (47) feet from the centerline of a county highway, deviating from the required setback of ninety-five (95) feet from the centerline for a county highway. Bartee presented the application.

Sara and Ryan Anderson were present. Anderson explained his request to construct a dwelling and attached garage, to be located at forty-seven (47) feet from the centerline of a county highway.

Boatman asked Anderson why they could not move back fifteen (15) feet closer to the lake to alleviate the issue with the road right of way. Anderson replied they will be using the dwelling as their permanent residence and would like to have a walkout basement for storm safety. Anderson explained he would like to place the dwelling on the hill in order to allow for the walkout basement. Anderson continued that if the dwelling was moved back past the hill it would cause issues as the water table in that area is only four (4) feet down, therefore by building it on the hill would reduce the impact on the property.

Boatman asked if he moved the house forward toward the water if they would still be able to have the walkout basement. Anderson replied the walkout would come straight out of the hill so they can be protected, adding if they moved it back they would not be able to use the hill for their walkout.

Boatman asked if they are going to be removing the cabins that are already on the property. Boatman noted that the one they requested to leave per the proposal is currently located in the shore impact zone. Anderson replied they were planning on leaving one cabin but it was going to be used as storage not as a cabin. Boatman stated they need to move it back a minimum of ten (10) feet to remove it from the shore impact zone. Anderson replied they would consider doing that. Boatman stated they would prefer to move the dwelling off of the ROW as much as possible for safety purposes. Anderson replied they have two young girls and recognize the concern. Anderson explained they would like to put some gravel down to the side of the house for a turn around.

Bruflodt clarified the house, cabins, and fish house are being removed and the one you are keeping is being moved back. Anderson replied yes adding the property used to be a resort. Bruflodt asked what type of septic was there. Anderson replied there were two different types of septic systems on the property.

Kessler stated if you are re-moving the existing house, can you move the driveway over and enter at a right angle to the attached garage. Anderson replied yes however they would have to haul in a great deal of fill as it would move construction over where the existing walkout basement from the current dwelling is located. Anderson explained that the property was originally his grandmother's resort and then was owned by his father and has been in the family since 1967. Spaeth asked when the last time a cabin was rented out. Anderson replied 1994 adding all of the cabins are currently being used as storage buildings. Anderson stated they are a growing family and the current house is too small to accommodate their needs for a year round residence.

Kovala stated it should be stipulated that the cabin in the shore impact zone should be moved back some and the old house should be taken out.

Johnston clarified the shore impact zone on the lake was fifty (50) feet.

Spaeth stated they are too close to the ROW.

Bender read a letter in the file from 1994, written by David Heyer, Becker County Hwy Dept. The letter is on file in the Becker County Planning and Zoning Office.

May 10, 1994

348 Dear Ron:

Recently you stopped by my office and together we went over your plans to build a garage on your property off CSAH #32 to determine if the garage would encroach on our right of way.

The right of way on CSAH #32 is 33' from centerline— the proposed structure will be built 35' from centerline. Therefore, if this structure is built as planned, it will not encroach on the County right of way.

If the proximity of the proposed garage is similar to other buildings on adjacent lots, then your plans meet our approval also.

Sincerely,

BECKERRCOUNTY HWY DEPARTMENT

r P.E. Engineer

David S. Heyer, P.E. Becker County Engineer

DSH:ph

cc: Floyd Svenby

Spaeth asked what the setback from the ROW is, adding per the sketch it appears to be fourteen (14) feet. Spaeth stated Anderson cannot park his car and be off of the ROW and the Board cannot allow him to park in the ROW. Spaeth stated the proposal must be denied as presented and Anderson has to move all structures out of the shore impact zone.

 Kessler stated on the south edge it juts out eight (8) feet, if you move the garage ahead eight (8) feet it would fit architecturally. Kessler stated with the house you would have twenty-two (22) feet to the beginning of the road on the south end. Spaeth stated the house is currently proposed to be at one hundred- fifteen feet from the lake noting there is room to move back from the ROW if Anderson redesigned the structure.

Anderson stated to accomplish that they would have to tear out the deep well noting he was aware the economic considerations would not be considered as a factor for hardship. Anderson stated the closet spot is at forty-seven (47) feet but it is a curved road so it comes back out where the actual driveway is located. Boatman stated the lot is big enough to move the dwelling off of the ROW adding it is in the best interest of the general population to do so. Anderson stated they allowed the extra fifteen feet (15) from the OHW setback to leave room to add a deck in the future.

Johnston asked where the deep well was located. Anderson replied it was on the corner of the garage and the house on the new house. Bruflodt asked if they were referring to the northeast corner. Anderson replied it is right were the house and garage meet. Bender stated the removal and filling of an old well is minimal compared to the cost of everything that is in the current proposal. Bruflodt stated most often the requests the Board gets are to construct closer to the OHW not move away from it. Anderson agreed that they are requesting to be farther away from their neighbors and other variance requests in the area which are closer to the road.

Kovala stated fourteen (14) feet from the ROW is not enough, adding it is dangerous to be that close. Spaeth agreed that the Board could not allow them to park on the ROW adding he must redesign the proposal. Kessler stated if he moved back six (6) feet farther from the ROW it would be enough. Bruflodt stated the concern is for both your and public safety. Bruflodt stated moving the well may be a pain and it would be good to remove the cabins out of the shore impact zone. Boatman stated he felt they should have to move back more than six (6) feet. Bender noted they could make it smaller or move it back. Boatman explained that Anderson could table his application. Bruflodt stated the proposed application would not be approved as submitted. Spaeth added that no matter what Anderson decided they would require him to remove the cabins from the shore impact zone, noting he was not allowed to do any land alterations until his request is approved.

At this time, Anderson asked to table the application to revisit the site to consider redesigning the location of the dwelling to omit parking in the ROW and also to find a new location for the cabin out of the shore impact zone.

SIXTH ORDER OF BUSINESS: APPLICANT: Robert & Tracy Wheeler LEGAL LAND DESCRIPTION: Tax ID Number: 08.1192.000 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a variance to construct a detached garage sixty (60) feet from the ordinary high water mark of the lake, deviating from the required setback of seventy-five (75) feet from the OHW on a general development lake, due to setback issues.

Bartee stated that wheeler had submitted a request in writing withdrawing his variance request and requested to be removed from the agenda.

SEVENTH ORDER OF BUSINESS: Informational Meeting. The next informational meeting is scheduled for Thursday, November 2nd, 2017 at 7:00 a.m. in the 3rd Floor Meeting Room of the Original Courthouse.

435	As there was no further business to come before the Board, Kovala made a motion to adjourn the			
436	meeting. Spaeth seconded. All in favor. Motion carried. Meeting adjourned.			
437				
438		ATTEST		
439	Jim Bruflodt, Chairman		Kyle Vareberg,	
440			Planning and Zoning Administrator	