

LAKE COUNTY BOARD of ADJUSTMENT
September 9, 2015
Lake County Courthouse Commissioners Office (Rm 211)
Meeting Minutes

MEMBERS PRESENT: Sue Lavery, Paul Grinde, Steve Rosso, Don Patterson, Frank Mutch

STAFF PRESENT: LaDana Hintz, Jacob Feistner, Lita Fonda

Sue Lavery called the meeting to order at 4:02 pm.

August minutes were not yet available so postponed. The agenda order was changed so the Schultz variance would be first.

SHULTZ VARIANCE—CITY COUNTY (4:03 pm)

Jacob Feistner introduced William and Dianne Schultz and Johna Morrison of Carstens and Associates, their agent. He presented the staff report. (See attachments to minutes in the Sept. 2015 meeting file for staff report.) He described a message he received this afternoon from Mel Rousche, the property owner of the undeveloped property to the north (lot 3), who had a view concern but felt the variance was reasonable if he was guaranteed to be granted the same variance. LaDana reminded they couldn't guarantee that he would get the same approval. He would have to come to the Board.

Frank checked whether the house would be closer to the south or north boundary. Jacob said that it would be closer to the northern property line. Features on attachment 3 map such as property boundaries and directional arrow were clarified. Frank verified with Jacob that this lot 2 was the same as lot 4C on the other plan (attachment 6).

Johna Morrison spoke as the agent for the project. The applicants had no problem adjusting to 15 feet as suggested by the Planning Dept. Although it made access to the garage a little tough, it was doable. Regarding the two structures, they had no problem with that condition. They would work that out with the Planning Dept. Bill Schultz said he hated to move those established structures that were at 10 feet [of setback] rather than 15. He'd rather not disturb the beach area but if they had to move them, they'd figure out a way. They wanted to keep the little cabin-like structure for a change room. They'd put it out of the way in that corner and didn't realize at the time that it had to be set back so far. Dianne Schultz said the little cabin had been on the property since she was 10 years old. It was falling in. They'd moved it down closer [to the lake] to use as a change room for the grandkids, and sided it and roofed it.

Steve asked about the foundation type. Bill said it was moveable. It was on ties right now and it would be easy to do something different if they had to. They'd probably have to eliminate it because they couldn't move it somewhere else because they couldn't drive in behind the houses. If they scooted it over, it would be more in front of where they were going to put the house. That wouldn't work very well. If they could leave those

where they were, they weren't affecting anybody. If they couldn't, they'd have to figure something out with those. Dianne said they talked to the neighbors to the south, who were in favor and said the Schultzes kept it mowed and landscaped. Steve asked about the foundation on the covered picnic shelter. Bill said he put concrete in because he had grass and the chairs tipped. It was a concrete slab. He didn't know how he could feasibly move that. Steve thought he'd break up the concrete and pour another slab.

Bill said that was his only concern. They could do the 15 feet for the building. Steve checked that setbacks didn't include sidewalks, walkways and driveways in the Polson Development Code. LaDana said they were included if they were over 3 feet wide and next to a building. The applicants could potentially keep the concrete slab down there for a picnic area and a little patio area. When you put the cover over it, it became a structure that had to meet the setbacks. She thought they could allow the concrete to stay. It was the structure itself and it was never permitted. This wasn't something that they legally noticed as part of this project for a variance. If the Board gave 15 feet to the house and the garage and to these structures that would be reasonable. Otherwise, maybe those other structures should be taken through review as another variance. That didn't make sense because they could be potentially relocated. Johna thought there was another problem with it being under two sets of regulations in the 50-foot buffer strip. LaDana said the zoning would apply in the [added area] to 50 feet. Steve noted it was a lake-related structure. LaDana said they'd allowed some lake-related structures to be there. If it was in the zoned area, they would comply with the zoning. If it was in the lakeshore area, they would comply with the lakeshore regulations.

Steve asked what would happen if they poured more slab on the north edge and moved the roof over 10 feet. There would be uncovered slab on the south side. LaDana replied that then it became part of the structure because of the structure definition. Steve said they'd have to cut that slab off at the 15-foot point and break that part of the slab up and haul it away. Bill said he didn't realize that would be a problem. It was one of those metal carports. It wasn't worth as much as the slab. If he took the slab out, he might as well take the whole thing out. It was nice to have it. He asked if there was a possibility to get a zoning variance.

LaDana said they were here today for a variance but it was a setback variance for the garage and the house. Bill asked if they couldn't add something to it. LaDana explained they could not because it had to go through the legal notice review, unless he wanted to take it through the process again. At this point, she didn't see why he couldn't move it over to comply, especially if the Board were to grant 15 feet today. They would want to make that consistent. She repeated the Schultzes could keep the slab there and remove the cover for a concrete patio. Sue mentioned they could have a picnic table with an umbrella that came and went. LaDana said there were also portable canopies that came and went. Bill reiterated that the slab could remain. Steve added as long as there wasn't a permanent cover.

Bill returned to the other structure. If they moved it over, it would be right in front of the house. LaDana asked if they could put it behind the house, between the drainfield and

the house. Bill said there wasn't enough room. It wasn't very big when you started to put things in there. That was why they decided to leave that area open. You had to turn around, like when you were bringing your boat trailer. They'd probably have to get another variance or a permit to build some sort of a storage shed for that stuff if they moved that building, too. If the issue was just because he screwed up and didn't get a permit and he was being punished for that then he guessed he could live with that. That was what it sounded like. It wasn't hurting anything environmentally or with runoff the way it was set. It was too close to the fence. LaDana said if he'd come to [Planning] when he put it there, they would have told him what the setbacks had to be and they would have reviewed the variance or whatever. Dianne referred to a building that was 6 feet off of the border. They didn't think it was a big deal.

Jacob asked if they thought moving it 5 feet to the north would work. Bill said it would be pretty close to the outside of the house. Dianne said they had picture windows and side glass, and the view. They didn't want to put the cabin in front of that. Jacob said the way it was moved forward on the site plan, if it were pushed 5 feet, it would just slightly overlap that front corner. Most of the front of the house would be open. Five feet wasn't very much on that map. Bill said you'd have 15 feet plus the 13-foot width. That was 32 to 35 feet from the line. You were pretty close to the house. Jacob explained that 10 feet was about ¼ inch on the picture. Another 5 feet would move it over about 1/8 inch on the picture. Frank said you'd have to move it to the east also to miss the house. The drawing and placement were further discussed by the group. LaDana said 18 x 28 seemed huge. Bill said it was 13 x 25 per his measure. Frank checked that it was 10 feet from the line currently. Steve said it wouldn't overlap the front of the house but it would still be in their view a little bit more. Bill agreed. Steve said they had 30 feet from the house to the property line. If they moved it to 15 feet plus the 13 feet width of building, that was 28 feet. You'd have 2 feet between the house and the edge of the cabin. Bill said it wasn't desirable to look at it. Dianne was concerned with fire code. Steve said it was 2 feet north-south, but it was 15 feet east-west. There wasn't a problem getting a lawnmower or whatever through there.

Bill said he was trying to leave enough room so he could back his boat in there to unload it. Steve asked if he was launching his boat off his trailer off of the beach. Dianne said about once a year. Bill said if they put it in and out there, then if there was a problem or storm they could pull it out instead of going to town. There was just enough room that he could [do that] now. Steve asked if he could run the truck on the north side between the house and the fence. Bill said no. There would only be 15 feet with the house in there. It would have to be raised a little bit to keep their water and stuff [inaudible] on that side. There was also a big tree on that side in front of the house right on the lake.

Steve said they would have to decide if they wanted to apply for a variance on those buildings down there. The Board couldn't deal with it in this particular application. Frank commented that the cabin was currently 10 feet from the property line. If it was moved another 5 feet, it didn't look like it would overlap the house much at all at that corner. Bill said it would be sticking out quite a bit when you got stuff in there. It was pretty narrow for access to the beach. It was okay for lawn mowing and walking. Frank

said they could eyeball it and see how it would fit. If it was easy to move, they could move it and that would resolve that issue. You could get a canopy from Costco for a picnic area and take it down in the winter or when the wind blew. Bill asked about moving the cabin to the north. It had skids so it could be moved. If they applied for a variance for the picnic area, could they apply for a variance to build a storage shed? Steve said they could apply for what they wanted in a new application.

LaDana said they might not need a variance. At some point, they would have to decide how much they could really have on a lot of this size. It was less than an acre and had some slopes, which were factors that limited the amount of development that people could typically have on those lots. They were putting a residence, a garage, a drainfield and a well on the lot plus the stuff that came with those. At some point they had to determine which ones they wanted to have the most and maybe build around the confines of the lot if they could. If the Board were to grant a variance for 15 feet tonight, she didn't know if they could grant a lesser variance because they'd already granted one. The staff report discussed that the applicants already got a 15-foot variance for their property up above. Variances weren't something the Board typically just handed out to everybody who asked. There had to be a hardship. In this case, it was an issue when the lot was created because it didn't comply with the zoning and other things. The Board gave a variance for the lot above. It seemed reasonable that these 3 lots in here will probably all need a variance at some point. Fifteen feet was determined to be the reasonable amount. The lot to the west was actually smaller than this lot in terms of acreage. She thought 15 feet seemed reasonable to grant a variance. She didn't know about going smaller and smaller.

Steve said the 15 feet did allow them 44 feet except where the easement was. In this east area, it allowed a 44-foot wide building area. You could do a lot in 44 feet. It just took some planning. In the western end of the lot, they had a 20-foot wide easement that they couldn't build on. A 15-foot setback might as well be 20 feet there. It shouldn't be an issue. In that western half, they had 39 feet of buildable width to put in their 36 x 36 garage. He thought these were reasonable ways to allow development on this lot.

Bill said the staff report suggested the lots could have been split into two lots instead of three at the time of the court order. They had to cut up the original house to split [the lot] from the lake to the highway to get two lots or you could trade two lots for the western half where the old house was and give another sibling the whole lakeshore. That was why they did it the way they did, with two skinny lots below and one above. People paid a lot of money for the lots on the lake. Whether there were covenants or not, or setbacks and so forth in place, there were a lot of things around there that were really close. There was a lot of money in taxes being paid, and they couldn't develop it and make it nice, if you wanted to have a nice view and different stuff. He could get rid of the cabin if he could feasibly put something else down there for a picnic shelter or some kind of storage building that was off to the side so it didn't obstruct the view from the house.

Steve said if he replaced the 13 x 25 structure with one that was just 10 feet wide, suddenly that northern edge of the new structure would be at the same place that he'd

wanted this edge. He would be within the setbacks and would still have a storage place for the water toys. Bill thought it would be reasonable. They'd have a little problem there because Dianne was sentimental about the cabin so they tried to utilize it. If the picnic area was okay, they could take away the cabin on skids and build a smaller structure that would be better and look better. That would be okay to him. Steve suggested if they had sentimental value in the cabin, the builders could probably move it with their equipment if they could find a spot on one of the lots. Bill and LaDana said there wasn't enough room. LaDana added they were probably at their maximum coverage up there. Steve found out from the Schultzes that the neighbor to the north was no longer a family member that might want the little cabin. Johna mentioned that was actually where it came from. Dianne described its history.

Bill said he was concerned about the picnic slab. Sue said to address the picnic slab, it could not have a permanent shelter over it. That was the easiest fix. It could have a canopy that was removable or a patio umbrella with nice furniture but it could not be permanent. They already solved their own dilemma there. If they wanted a permanent structure, they would have to change some things. Bill asked if they could get a permit to build a little building there with a 15-foot setback if they decided to remove the picnic cover and got rid of the cabin. Steve said they wouldn't need another variance for that if they observed the 15-foot setback. Frank asked if a 10 x 10 storage shed needed a permit in this area. LaDana said accessory structures in most zoning districts had to meet the setbacks even though they might not need a permit [inaudible]. Steve asked if they would need a permit for a shed that was less than 100 square feet. LaDana said not all zoning districts were the same. Frank said it was something to check into. Steve said they would still have to meet the setbacks and other requirements. Bill asked what a permit cost. LaDana replied it was \$150 but they could roll it in to the permit that they already had. The other thing they could do was to look at the lakeshore protection area, which was 20 feet inland. The setbacks there were a little different. They were typically less than the zoning setback. Maybe you could get something closer to the line within that 20-foot zone. They could look at that too. Johna thought they weren't allowed in there. Jacob said [inaudible] more than 20 feet long. LaDana added that was for a boathouse. You could have a structure for lake stuff. A lot of people had sheds or pump houses.

Public comment opened: None offered. *Public comment closed.*

Steve thought it was reasonable to make the lot developable. It wasn't developable with 30-foot setbacks. Paul said it was a minimal structure. If they were willing to move it over to 15 feet, it was fine with him.

Motion made by Steve Rosso, and seconded by Don Patterson, to accept the findings of fact in the staff report and to approve the variance for 15-foot setbacks (north and south) on this lot. Motion carried, all in favor.

Bill confirmed with LaDana that he had two years to build. He asked about the time limit to remove the picnic [structure], and mentioned spring. LaDana said they would work

with him on that. They could do that as part of the permit. He could work with Jacob to come up with scenarios for a little shed or building and placement. Bill said if he got rid of the current one, he could build something right there by the slab.

MORELL VARIANCE—EAST SHORE (4:44 pm)

Jacob mentioned that Johna Morrison of Carstens & Associates was also the agent for the Morells. He presented the staff report. (See attachments to minutes in the Sept. 2015 meeting file for staff report.) He referred to an updated site plan which had been handed out. Steve noted that the shaded parts were the parts under 25% slope and that the lakeshore setback was 50 feet from high pool rather than the fall pool. LaDana pointed to item #8 on pg. 13. The lot was created in 1978, many years prior to the zoning. Steve asked what happened in 1990. Jacob answered the house was built then. Zoning was established in 1991.

Sue referred to attachment 7A photo 2 and asked if the trees were going away. Jacob replied they should be able to stay. If you looked at the top picture, the trees were to the right of the picture. The guest house would go off of the left corner of the house. [The trees] would be towards the lake from the proposed structure. Steve referred to the elevation plans of attachment 4. On the west elevation drawing, which would be the lake side of this cabin, it showed a door in the corner. It looked like it would be a big step out that door. Was there going to be a deck? Jacob referred to the top picture in 7A. He thought that was where it was going to attach to the deck on the house. Johna clarified there was an existing deck on the back of the house. Jacob said the door would go to some kind of walkway that would connect to that. Steve commented it wasn't shown on this plan. Johna explained there was a flat area with an existing deck in that general area. He might have to build a small landing, maybe 4 x 4, to connect the door. Steve checked that a little landing there wouldn't affect the square footage of the project. LaDana said no, it was interior living area with guest house. Steve checked it wouldn't affect other parameters of the project. Jacob thought there might be a slight addition to coverage but there was enough coverage available.

Johna said the best way to explain where the little landing would go was to look at photo #2. The corner of the house was on the left edge of the picture. The structure started there. You could see there was a stairway on the picture above it, with maybe 4 feet of difference where they would have to have a landing to connect the stairway to the cabin. In that area, they had their septic tank. It was flat and you could walk through there. Steve asked if the vegetation in the location of the new guest house was just weeds, bushes and grasses, and if it would remain. Johna said no bushes, just grasses. They were going to post and pier right over the top of it. Steve said they were going to let that be natural. Johna supposed they would weed eat under it. They figured instead of going for a conditional use for disturbance of slopes, they were so close with the numbers that if they went over them, they'd end up in a variance process anyhow. They thought the best way to handle this was with a variance to be absolutely sure they didn't disturb too much of the ground. Steve thought that was a good solution. The ground would still absorb water. Johna said they just wanted the grandkids out of the house.

Johna didn't have further comments to add.

No public present to comment.

Board members murmured that it looked good.

Motion made by Sue Lavery, and seconded by Frank Mutch, to allow the variance with staff report, findings of fact and conditions. Motion carried, all in favor.

OTHER BUSINESS (4:49 pm)

The normal meeting date in November fell on Veterans Day holiday. The Board members agreed to meet on Thursday, Nov. 12 although Sue might not be available.

Sue Lavery, chair, adjourned the meeting at 5:04 pm.