

Decision on Special Exception
By Bayfield County Board of Adjustment

Case No. 2
August 30, 2007

Aloysius J. Klingelhutz is requesting a special exception as authorized under the terms of Section 13-1-22(j) of the Bayfield County Zoning Ordinance. This section states: Special Exceptions. Minimum side and rear yard setbacks (other than shoreline and public road setbacks) and minimum private road setbacks may be reduced, and side and rear yard setbacks (other than shoreline and public road setbacks) in commercial districts may be eliminated, by special exception granted by the Board of Adjustment pursuant to Section 13-1-102-(e)(4).

The special exception as authorized under this section is to construct a residence 58' from North property line and 58' from South property line instead of the required 75' as required in Section 13-1-60(a). Property is a 5-acre parcel (ID# 048-1027-02) described as part of the South 165' of the SW ¼, of the NW, Section 19, Township 48 N, Range 8 W, Town of Tripp.

Findings of Fact and Conclusions of Law:

1. Applicant seeks a special exception for reduced setbacks pursuant to Sec. 13-1-22(j) of the Ordinance.
2. Applicant seeks to construct a residence 58 ft., from both the north and south property lines.
3. Sec. 13-1-60(a) requires a 75 ft., setback in this A-1 zoning district.
4. This is a substandard lot of record created in 1968. It has a width of only 165 ft., so if the 75 ft., setbacks were respected there would be only a 15 ft., buildable corridor.
5. There was testimony from Mr. Casina that there were some waterways on the lot but they were more toward the back of the lot, and the applicant wished to build closer to the town road. This would not cause any problems because the building would be more than 100 ft., from the Iron River and its tributary that crosses the property.
6. There are no wetland concerns. Approximately two-thirds of the lot is wooded, with the balance open.
7. Without the grant of a special exception in this case the buildable corridor would be simply too small.
8. The town board recommendation is part of Exhibit B-1. The Town of Tripp voted to recommend approval.
9. In deciding whether or not to grant the special exception the board has considered the criteria in Sec. 13-1-41(b) of the Ordinance, including but not limited to the following:
 - A. The prevention and control of water pollution.
 - B. Existing topographic and drainage features, and vegetative cover on the site.
 - C. The location of the site with respect to flood plains and floodways.
 - D. The potential impact of the proposed use on other lands, including neighboring lands. There is a similarly small sized non-conforming lot immediately to the north.
 - E. The community and general welfare, including how this will affect adjoining land uses.

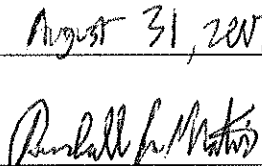
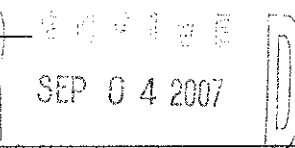
Decision: For all of the above reasons the special exception is granted, with the following conditions:

1. The 75 ft., setback adjacent to the north property line will be respected.
2. A special exception to allow a reduced setback of 50 ft., on the south property line will be allowed. These setback figures will apply to not just the foundation but also the roof line of any building constructed.
3. The building will be constructed so that its widest part runs east and west. The maximum north/south dimension of the building will be 36 ft.

Motion made by Randy Matis, seconded by Lee Wiesner to grant the special exception with the conditions as stated.

MOTION PASSED.

VOTE: Yes 4 No 0

Dated: August 31, 2007  

Members Present: Randy Matis, Lee Wiesner, Richard Compton and Phil Lupa.

Also Present: Michael Fauerbach, Attorney for BOA