

Decision on Variance

By Bayfield County Board of Adjustment

Case No. 4

April 27, 2006, Meeting

Diocese of Superior, owner, and St. Peter's Church, (David Hnath) agent are seeking a **variance** from the terms of Section 13-1-40 (c)(3) of the Bayfield County Zoning Ordinance. This section states: Except as provided in Paragraph (4)d, the lifetime total of all expansions shall not exceed fifty percent (50%) of the structure's footprint that existed at the time the structure became nonconforming; an owner shall provide documentation of the footprint of a structure at the time it became nonconforming, and any expansion shall be documented by recorded affidavit.

Applicant wishes to exceed the 50% footprint. A non-permitted entryway would be replaced with a new weather-proofed 26 ft. by 8 ft. enclosed passageway/hallway and an 8 ft. by 8 ft. porch connecting the existing garage (aka: social hall) to the church exceeding the allowable expansion rights by 1,162.23 sq. ft.

The applicant's property is a substandard lot of record, described as a 3.5 acre parcel (I.D. # 028-1017-04) located in the SE ¼ of the NE ¼, Section 26, Township 47 North, Range 6 West, Town of Keystone, Bayfield County, WI.

Findings of Fact and Conclusions of Law:

1. The St. Peter Church of Dauby is seeking a variance to construct a 26 ft. by 8 ft. weather-proof passageway/hallway and an 8 ft. by 8 ft. porch between the existing church and social hall.
2. The church is a non-conforming structure due to being 43 ft. from the centerline of Dauby Road and 50 ft. from the centerline of County Road F.
3. According to 13-1-40(c)(3) of the Bayfield County Zoning Ordinance, the lifetime total of all expansions shall not exceed 50% of the structure's footprint that existed at the time the structure became nonconforming.
4. The original church building was constructed before the Town of Keystone adopted Zoning and was 2,076.54 square feet. This would allow the church additional expansions of up to 1,038.27 square feet.
5. In 1995, the church requested and was permitted an addition of 773.5 square feet to the original church structure. This leaves the church 264.77 square feet of allowable expansion.
6. In 1998, the church requested a permit for a garage/social hall that would be detached from the original church structure; the permitted structure is 1,152 square feet.
7. Today the church is seeking a variance to construct a weather-proof hallway between these two structures, this expansion would add an

additional 1,427 square feet (this includes the 1,152 square foot social hall) to the original church structure, therefore, exceeding the allowable expansion rights by 1,162.23 square feet.

8. The church has applied for a conversion permit to convert the garage to a social hall, which is what it has been used for.
9. Mr. Tulowitzky from the Zoning Department indicated that there is a 1995 holding tank which meets code and would be adequate with this modification that is proposed in this variance.
10. The church has agreed that the unpermitted deck would be removed as part of this project.
11. The Board does not have a recommendation from the Town of Keystone because the Town of Keystone clerk did not pick up the letter seeking their input.
12. What is requested here would be close to the allowable expansion without a variance, but for the attachment of the social hall to the church, and then all of the square footage from the social hall and the church would combine to determine whether or not the expansion was within the limits provided for by the ordinance.
13. The representative of the church, David Hnath, indicated that the present deck is heaving from the frost and causing problems with doors opening.
14. There are also problems in the winter with people going from the church to the social hall carrying food between the two buildings.
15. There are no bathrooms in the social hall and the only kitchen is in the church.
16. There are issues of not only convenience and comfort but also safety, because the congregation is elderly, 75% of them 55 years of age or older, and one of the members being handicapped in a wheelchair.
17. During the winter, snow and ice has created problems for the handicapped and elderly people going between the two buildings.
18. Planning and Zoning Administrator Karl Kastrosky indicated that he felt that the Board should consider the reasons for the nonconformity here. This building is in a nonconforming location because it is too close to two roads. However, these are rural roads with low traffic that are unlikely to be expanded. One of the roads, Dauby Road, is a dead end.
19. Mr. Kastrosky felt that it was very unlikely that this would adversely affect the public in general or have an adverse effect on this particular property.
20. The Board has considered whether or not there is an unnecessary hardship here and feels it would be an unnecessary hardship to members of the congregation if this passageway was not enclosed.
21. When coming to that conclusion, the Board has considered whether refusal to grant this variance would unreasonably prevent the church and congregation from using the property for its permitted purpose or would render conformity with the restrictions unnecessarily burdensome.
22. The Board has also considered the purpose of the Zoning restriction in question, its effect on the property, the effect of the variance on the

neighborhood, and the larger public interest. The Board is convinced that there is nothing about this proposal that would adversely affect any of those concerns.

Decision:

For all of the above reasons, the request for the variance is granted with the following conditions:

Conditions:

1. The unpermitted deck would be removed.
2. There would be no further development and no additional variances allowed on the property.

Motion made by Kerry Tetzner; seconded by Leroy Wiesner.

VOTE: 5 Yes; 0 No.

DATED: May, 9, 2006.

Kerry Tetzner

Members Present: Randy Matis, Chairman; Kerry Tetzner; Philip Lupa, Leroy Wiesner, Richard Compton;

Also Present: Michael Fauerbach, Attorney for B.O.A.; Karl Kastrosky, Director of Planning & Zoning; Michael Furtak, Assistant Zoning Administrator; Travis Tulowitzky, Land Use Specialist; Doug Casina, Assistant Zoning Administrator