

Decision on Variance  
By Bayfield County Board of Adjustment

Case No. 2  
April 26, 2007

Edward Brunner is seeking an **interpretation** and based upon the decision a **variance** from the terms of Section 13-1-32(e)(6) Rows A, B & E of the Bayfield County Zoning Ordinance.

Row A (Shoreline Frontage)	150 feet per every 4 dwelling units; 600 feet minimum
Row B (Open Space)	30,000 square feet per dwelling unit
Row E (Shoreline Setback)	200 feet

Applicant seeks the variance to re-develop an existing resort comprised of 9 units to raze all but 2 of the existing units and construct a 2 unit residence. The variance is requested because the parcel has 390 feet of frontage, has 90,000 sq. ft of open space, and the new structure would be setback 100 feet from the OHWM.

Property is a 2-acre parcel (ID# 024-1181-17-000 & 024-1151-06-000), located in Gov't Lot 8 and Lots 1-3, Block 2, Pike Lake Park Subdivision & a vacated road portion in V. 769 P. 501, Section 28, Township 47 N, Range 8 West, Town of Iron River, Bayfield County, WI.

**Findings of Fact and Conclusions of Law**

1. Applicant seeks an interpretation, and if necessary a variance, from Sec. 13-1-32(e)(6) of the Bayfield County Zoning Ordinance. That section relates to multiple unit developments and requires a minimum of 600 ft. of lake frontage, 30,000 sq. ft. of open space per dwelling unit, and a 200 ft. setback from the ordinary high water mark.
2. This variance is sought to re-develop an existing resort compound of 9 units. Seven of the 9 units would be razed when the plan would be completed. In addition to the 2 remaining units a 2 unit or duplex residence would be built.
3. This re-development comes within the definition of the recently enacted definition of "multiple unit development" in Sec. 13-1-4(a)(42m).
4. Director of Zoning & Planning Karl Kastrosky indicated that the applicant has done everything he could to come up with the best plan available, given the options available to him.
5. Mr. Kastrosky also indicated that he could do pretty much what he intended here without a variance by treating this as condominium units. There was also testimony that there had already been a condominium declaration for this property.
6. A substantial number of buildings have already been torn down, according to Assistant Zoning Administrator Doug Kassina. There is a 2,879 sq. ft. two story lodge that would be torn down in the future. Cabin #3 having 439 sq. ft. has been razed. Also, a storage building of approximately 440 sq. ft. has been razed.
7. Mr. Brunner indicated that the cabins identified in Exhibit B1 as #8, 7, 6, and 3 have been

- eliminated. Many of the failed septic systems servicing those buildings have also been removed.
8. Mr. Brunner indicated that many of these septic systems were very old and were installed as early as the 1920s.
  9. Mr. Brunner has already installed a new septic system for the remaining cabins #1 and 2, and that system would be equivalent to what would be needed for a 4 bedroom house. A new septic system has been installed in anticipation of the building of the duplex.
  10. The remaining buildings that Mr. Brunner would intend to tear down would be the lodge and cabins #4 and 5.
  11. The pictures that were identified show, and Mr. Brunner confirms, that the soil in this area is very sandy and permeable.
  12. In terms of square footage of cabins that have been torn down, all the cabins that were removed were equal to or greater than 440 sq. ft. Approximately 3,000 sq. ft. total of small cabins have been torn down. With the removal of the lodge, the total square footage of old buildings removed in this multiple unit development would exceed 6,000 sq. ft.
  13. Mr. Black, a co-owner, indicated that there are a number of letters of support from neighbors and those were admitted as Exhibit B3.
  14. Mr. Brunner and Mr. Black both agreed to a number of conditions that are set forth below. Mr. Black also indicated that those conditions could be complied with within 1 year plus a building season.
  15. Based upon all of the evidence already stated, the board finds that it would be an unnecessary hardship of this variance were not granted.
  16. The board further finds that compliance with the strict letter of the zoning requirement would unreasonably prevent these owners from using the property for a permitted purpose and would render conformity with the restriction unnecessarily burdensome.
  17. In making that finding the board has considered the purpose of the zoning restriction in question, its effect on the property, the effect of a variance on the neighborhood and the larger public interest.
  18. As regards the purpose for the ordinance in Sec. 13-1-3, the board has considered the maintenance of safe and healthful conditions, the prevention and control of water pollution, and the protection of aquatic life.
  19. In that regard the board is very impressed with the number of antiquated septic systems near the lake that have already been removed and the additional ones that will be removed.
  20. The board finds that this redevelopment would have a beneficial effect not only on this property but on the neighborhood in general, and certainly on the larger public interest.

**Decision:** for all of the above reasons the variance is granted with the following conditions:

1. The applicants will see to it that the condominium declaration related to this property is eliminated and no condominium declaration on the property will be allowed in the future.
2. There will be no further development on the site except that the existing garden shed may be replaced and at some point in the future the applicants may, if they choose, install a gazebo and hot tub. Both the garden shed and the hot tub will be 100 ft. or more from the

- ordinary high water mark.
3. This property may not be subdivided, ever.
  4. The new duplex may have a total footprint of 5,280 sq ft., including the 960 ft. raised deck which will have a permeable surface under it. The new duplex, including the deck, will not be any closer than 100 ft. from the ordinary high water mark.
  5. The lodge and cabins #4 and 5, along with any non-conforming septic systems, will be removed.
  6. All of the above conditions will be complied with not later than October 1, 2008.
  7. The board further recommends, but does not require, that the applicants consult with the Ashland, Bayfield, Douglas, Iron County Land Conservation Department for any recommendations related to mitigation or revegetation of the shoreline.

Motion made by Wiesner, seconded by Matis to grant the variance and pass the motion.  
MOTION PASSED.

VOTE: Yes 4 No 0

Dated: \_\_\_\_\_

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

Also Present: Michael Fauerbach, Attorney for BOA