

DECISION ON VARIANCE  
BY BAYFIELD COUNTY BOARD OF ADJUSTMENT

Case #2  
June 26, 2008

**Jon & Barbara McKinney** has requested a **variance** from the terms of Section 13-1-60 (f) of the Bayfield County Zoning Ordinance. This section requires:

(f) Notwithstanding any of the above provisions, the following dimensional requirements shall apply within R-4 Zoning Districts within the Town of Cable, regardless of the availability of sewer and/or water service:

Minimum Area	Minimum Frontage Width	Minimum Average	Minimum Side and Rear Yards for Principal and Accessory Buildings
20,000 sq. ft.	100 ft.	100 ft.	10 ft.

Applicant seeks variance to reconfigure 3 existing substandard lots of 11,238 sq. ft for a total of 33,714 sq. ft to 2 lots of 16,857 sq. ft each which is 3,125 sq. ft less than the required 20,000 sq. ft. per lot required.

Property is a .516-acre parcel (ID# 012-1263-04), located in the Lots 1-3, Block 3, Village of Cable Section 18, Township 43 N, Range 7 W, Town of Cable, Bayfield County, WI.

FINDINGS OF FACT, CONCLUSIONS OF LAW

1. The applicants seek a variance to reconfigure three existing substandard lots of 11,238 sq. ft., for a total of 33,714 sq. ft., to two lots of 16,857 sq. ft., each of which would be 3,125 sq. ft. less than the required 20,000 sq. ft. per lot required.
2. This is an area within the Town of Cable where R-4 lot size limits apply.
3. The town board recommended approval of the variance, indicating that it was in compliance with the local land use plan.
4. The applicants feel that this variance would facilitate off street parking and the sale of a closed business on one of the lots. The applicants also feel that this would facilitate development of the other proposed lot.
5. Assistant Zoning Administrator Mike Furtak indicated that normally 15,000 sq. ft. lots are allowed in commercial districts. Here there is a 20,000 sq. ft. requirement because of a special rule applicable to the Town of Cable.
6. Mr. Furtak indicated that downtown Cable has an acute shortage of public parking.
7. Mr. Furtak also indicated that it would be difficult to develop these lots in their present configuration, and that lots in this area are generally smaller than 20,000 sq. ft.

8. The board has learned in a companion case brought by the Town of Cable that this undersize lot problem is common within the settled area of Cable, and has a tendency to hinder orderly development.
9. The owner, Jon McKinney, indicated that he pays two separate sewer charges on the land that he owns.
10. The board has considered whether the failure to grant a variance in this case would constitute an unnecessary hardship. The board understands that "unnecessary hardship" is best explained as whether compliance with the strict letter of the restriction governing area and density in this case would unreasonably prevent the owner from using the property for a permitted purpose or render conformity with such restrictions unnecessarily burdensome.
11. The board finds that it would be an unnecessary hardship if no variance was granted and applies this standard, as follows:
  - A. The purpose of the zoning restriction in question would be served because this would actually reduce the number of substandard lots on this property and foster orderly development.
  - B. The board feels that the effect on this property in particular would be positive, as it would make the property more attractive to potential owners.
  - C. The effect of the variance on the neighborhood in general would be positive because the town indicates that the variance sought is consistent with the land use plan and would provide the possibility for additional parking space.
  - D. The board finds that the larger public interest would be met because it would foster orderly development in an area that is served by municipal sewer and where a somewhat denser development is definitely in the public interest.
12. The board finds that there would be no impact on any navigable waters and the public trust document would be inapplicable to this situation.
13. The board also considers that the vacant building involved, which was previously used by the Chequamegon Telephone Cooperative, could not easily be sold or put to another use without this variance and some increased parking.

Decision: For all the above reason the variance is granted.

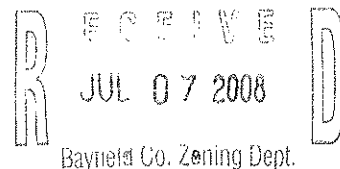
Motion made by Matis, seconded by Wiesner, to grant the variance.

MOTION PASSED.

VOTE: Yes 4 No 0

Dated: July 2nd, 2008

*Randy Matis*



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

Also Present: Michael Fauerbach, Attorney for BOA