

DECISION ON VARIANCE
BY BAYFIELD COUNTY BOARD OF ADJUSTMENT

Case #1
March 27, 2008

Robert & Gretchen MacCarty, owner and Scott Byrd, agent are requesting a variance from the terms of Section 13-1-22(b), Row 3 of the Bayfield County Zoning Ordinance. This section states:

(b) **Highway Setbacks.**

Class of Highway	Setback Front Centerline	Setback from Right of Way Line
State & Federal	110'	50', whichever is greater
County	75'	42', whichever is greater
Town	63'	30', whichever is greater

Applicants seek to build a 24' x 30' garage at a setback of 51' from the centerline of Kraft's Point Road.

Property is a 3.18-acre parcel (ID# 04-018-2-44-07-33-3-06-020-1000) located in Gov't Lot 2, Section 33, Township 44 N, Range 7 W, Town of Drummond.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The applicants are seeking a variance to build a 24' x 30' garage 51' from the centerline of Kraft's Point Road.
2. Sec. 13-1-22(b) Row 3 of the Bayfield County Zoning Ordinance requires a setback of 63' from the centerline or 30' from the road right-of-way, whichever is greater.
3. This property is a 3.1 acre parcel in the Town of Drummond.
4. The town board recommended approval of the variance provided that the old garage is removed. The recommendation also indicated the town's opinion that this would improve safety along the right-of-way.
5. There are certain topographical features of this lot which make placement of the garage anyplace else on the parcel very difficult. Those features include a steep dropoff to the lake extending the entire width of the property, and a deep ravine.
6. Even if it were feasible to build a garage on the slope to the lake, that would place the garage closer to the lake and conflict with the 75' setback.
7. The board feels that it is environmentally preferable to be closer to the road than to Lake Owen.
8. Mr. Lobermeier's report of March 6, 2008 indicates that the slope to the lake is in the range of 60%.
9. Mr. Furtak from the zoning department indicated that the soil in the area is highly erodible.
10. Mr. Lobermeier also noted in his report that the steep slope is currently well maintained, with a good mix of native vegetation and is not an erosion problem. This report is part of

Exhibit B-1.

11. The existing garage is closer to the road and, in fact, is almost on the right-of-way.
12. Both Mr. Kastrosky and Mr. Furtak from the zoning department indicated that there is really not another suitable location for the garage on the parcel.
13. The board has considered the applicable standard for a variance, that of requiring an unnecessary hardship. The unnecessary hardship standard is best explained as whether compliance with the strict letter of the restriction governing setback would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
14. In applying that standard the board has considered the purpose of the zoning restriction in question and this restriction, among other things, is designed to protect lakes, and Lake Owen would be protected if the variance were granted in this present location.
15. The board has also considered the effect of the variance on the property. The board feels overall the effect would be good.
16. The board has also considered the effect of the variance on the neighborhood and the larger public interest. The board feels those needs would be met, as shown by the town board's statement that safety along the right-of-way would be improved.

Decision: For all of the above reasons, the variance to build a garage in the requested location is granted, with the following conditions:

1. The shoreland lighting ordinance would be complied with.
2. All of the conditions and requirements of the Lobermeier report of March 6, 2008 would be complied with.
3. The old garage and the storage building would be removed.
4. Demolition from the buildings to be torn down would be taken to a licensed construction landfill.
5. All of the above conditions would be complied with not later than November 1, 2008.

Motion made by Rasmussen, seconded by Lupa, to grant the variance with the conditions indicated.

MOTION PASSED.

VOTE: Yes 5 No 0

Dated: _____

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

Also Present: Michael Fauerbach, Attorney for BOA