

OCT 02 2008
Bayfield Co. Zoning Dept.

DECISION ON SPECIAL EXCEPTION
BY BAYFIELD COUNTY BOARD OF ADJUSTMENT

Case #1
September 25, 2008

James Bigott, Jr. 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 convert an existing garage into a residence 45' from the North property line instead of 75' as required in Section 13-1-60(a), Row 4, Column 2.

The property is a 13-acre parcel (ID# 04-021-2-44-06-27-4-05-013-10000), described as a parcel of land located in Gov't Lot 13, Section 27, Township 44 N, Range 6 W, Town of Grand View, Bayfield County, WI.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The board has considered all of the evidence in this case, including Exhibits A1 through A7.
2. The applicant seeks a special exception for a reduced side yard setback for a residence.
3. This property is zoned F1 and the applicable side yard setback would be 75 ft. This building is 46 ft. from the side boundary.
4. This structure was originally permitted as a garage with plans to build a primary residence at a different location in the future. The applicable setback for the garage was then 30 ft.
5. The garage was, in effect, illegally modified to be a residence with septic and water, but that was primarily done by a former owner who has since committed suicide.
6. This application was filed on August 6, 2008. The property had been deeded to the applicant on May 23, 2008.
7. The Town of Grand View was asked for their recommendation on this matter. That recommendation was to table the issue. The board feels that a recommendation from the town board was certainly sought and the town board understood that the effect of the special exception would be to allow a residence at this location.
8. James Bigott, Sr., is the applicant's father and he appeared on behalf of James Bigott, Jr.
9. James Bigott, Sr., testified that when his son purchased the property he thought it was a residence because it was presented as such by McKinney realty. (See their listing document, Exhibit A3).
10. Mr. Bigott, Sr., was asked about what changes the Bigotts had made after the purchase. James Sr., indicated that they had put knotty pine on the walls, they had put in a new sink, toilet and septic, and the septic had been permitted by the county. He indicated that

- there was running water and a water heater on the premises before they purchased it, although the evidence regarding the water heater was in dispute.
11. James Bigott, Sr., also indicated that there were room dividers and furniture when they purchased the property and his son had done nothing to convert the garage into a residence, with the possible exception of the septic system.
 12. Mr. Lahti was an adjoining property owner who testified and objected to the special exception. Mr. Lahti was asked what evidence he was aware of that the Bigotts had actually converted the property from a garage to a residence other than the septic system. He indicated that he had been in the building previously and he did not recall a bathroom at that time. He also said that James Bigott, Jr., had told him that he was going to convert the structure to a three bedroom residence. It is listed as a two bedroom residence on the McKinney listing.
 13. The board finds that James Bigott, Jr., did not know that the building had not been properly permitted as a residence at the time he purchased it.
 14. In deciding whether or not a special exception is appropriate in this case the board has considered all of the criteria in Sec. 13-1-41(b)(4), and particularly the maintenance of safe and healthful conditions, the prevention and control of water pollution and noise, the potential impact of the proposed use of other lands in the area, and the neighbors' and community's general welfare. The board finds very little, if any, evidence that any of the above criteria will be negatively impacted.

Decision: For all the above reason the board decides that a special exception to allow the structure as a residence in its present location, despite the setback issue, should be granted with a condition. That condition is that there will be no further development on this parcel at all, unless the owner were to seek a permit for a residence. If that occurs then the residence could be built if it otherwise complied with all zoning requirements, but this subject building that exists now would become a garage or other storage building without running water or sewer.

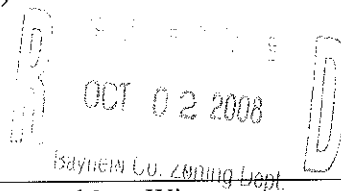
Motion made by Lupa, seconded by Compton, to grant the special exception with the condition stated above.

MOTION PASSED.

VOTE: Yes 3 (Compton, Wiesner and Lupa) No 1 (Matis)

Dated: September 30, 2008

Randy Matis



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

Also Present: Michael Fauerbach, Attorney for BOA