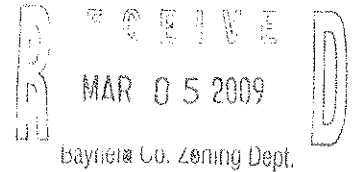


DECISION ON VARIANCE
BY BAYFIELD COUNTY BOARD OF ADJUSTMENT



Case #1
February 26, 2009

Patrick & Kara Foat are requesting a **variance** from the terms of Section 13-1-40(c)(3)c 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; and.

Applicants seek a variance to exceed the 50% expansion rule for a non-conforming commercial building addition. The existing structure is 2,580 sq. ft. and 65' from the centerline of Cty Hwy Y. The applicants will remove 880 sq. ft. of enclosed living space and a 24' x 36' garage (864 sq. ft.). The proposed expansion would be Phase 1- an addition of retail space 40' x 60' (2,400 sq. ft), and Phase 2- dry storage 30' x 40' (1,200 sq. ft.) for an overall total of 3,600 sq. ft.

The property is a 10-acre parcel (ID# 04-004-2-44-09-07-3-03-000-50000), located in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW SW SW), Section 7, Township 44 N, Range 9 W, Town of Barnes, Bayfield County, WI.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The applicants seek a variance from the terms of the ordinance to expand the nonconforming structure more than the allowable 50%.
2. The existing structure is 65 feet from the centerline of the county highway and consists of 2,880 feet. The required setback is 75 feet from the centerline of a county highway, although in this case the setback from the right-of-way is met; it is the setback from the centerline which is lacking because the road, in effect, has been built off center of the full right-of-way.
3. The applicants plan to remove 880 square feet of living space and a 864 square foot garage.
4. The proposed expansion would be in two phases. Phase 1 would be an additional 2,400 square feet of retail space. Phase 2 would be dry storage of 1,200 square feet. Total additions 3,600 square feet.
5. The board has considered all of the exhibits admitted, including Exhibits A-1 through A-3.
6. The board notes that the new construction requested will not increase the nonconformity because all new construction will be farther from the county road.
7. County Highway Y in this area will not be interfered with by the expansion, and that expansion should cause no safety problems. The board also finds that this building would not interfere with future expansion of the road.
8. Assistant Zoning Administrator Mike Furtak indicated that he did not think any mitigation or conditions of the variance were needed. This is due, in part, to the fact that there are few neighbors in the area that would be affected.
9. The board has also considered the fact that this building, because of its type of construction, cannot be moved.

10. The board has also considered the town board recommendation which is to approve and which also indicates that the town board has considered whether or not this would be compatible with the land use plan.
11. In determining that a variance is appropriate in this case the board has considered the unnecessary hardship and whether strict compliance with the restriction for the setback in this case would unreasonably prevent the owners from using the property for a permitted purpose or would render conformity with the restriction unnecessarily burdensome. Based upon the facts of this case the board finds that there would be such an unnecessary hardship without a variance.
12. In coming to that conclusion the board has considered the purpose of the zoning restriction in question which is to provide a reasonable setback from the county highway.
13. The board has also considered the effect of the variance on this property which would greatly benefit the property because it would allow for reconstruction on a building that is essentially falling in upon itself, according to the owners' testimony.
14. The board has also considered the effect of the variance on the neighborhood which the board feels would be positive.
15. The board has also considered the larger public interest which the board feels would be met by a variance in this case.

Decision: For all of the above reasons the board votes to grant a variance as requested by the applicants.

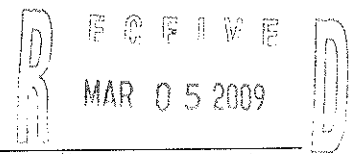
Motion made by Richard Compton, seconded by Randy Matis to grant the variance.

MOTION PASSED.

VOTE: Yes 4 No 0

Dated: March 3, 2009

Randy Matis



Members Present: Richard Compton, Randy Matis, Phil Lupa, Jacqueline LaBelle Public Works Zoning Dept

Also Present: Michael Fauerbach, Attorney for BOA