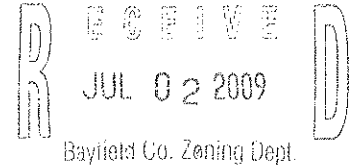


DECISION ON VARIANCE
BY BAYFIELD COUNTY BOARD OF ADJUSTMENT

Case #1
June 25, 2009



Michael & Amy Bochler has requested a **variance** from the terms of Section 13-1-26(a) of the Bayfield County Zoning Ordinance. This section requires: a substandard lot of record in the Bayfield County Register of Deeds Office prior to April 20, 1971, which is not served by a public sanitary sewer and which is at least 10,000 sq. ft. in area, 65 ft. in width at the building line, and 65 ft. in width at the water line, or which is served by a public sanitary sewer and is at least 7500 sq. ft. in area, 50 ft. in width at the building line, and 50 ft. in width at the water line, may be used as a building site if it meets the following requirements:

- (1) The proposed use of the site is permitted in the zoning district in which it is located.
- (2) All applicable setback requirements of this ordinance and all provisions of the Bayfield County Sanitary and Private Sewage Ordinance are complied with.

Applicants seek a variance to construct a residence (28' x 30') on their substandard parcel of land having less than the 65' of water line requirement. This residence would replace the existing residence which is less than 600 sq. ft. and located less than 75' from the ordinary high water mark.

Property is a 0.16-acre parcel (ID# 04-024-2-47-08-33-1-00-207-34000), located in the E 55' of Lot 22, Ledin's Subdivision, Section 33, Township 47 N, Range 8 W, Town of Iron River, Bayfield County, WI.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The applicants seek a variance to construct a 28' x 30' residence on a pre-existing substandard lot of record zoned R-1.
2. The lot is substandard because it is 55' wide at the water line rather than the required 65'. It is also less than 10,000 sq. ft. in area.
3. The present structure is old, somewhat dilapidated and in need of repair and is located approximately 51' from the water.
4. No well or septic presently exist on the parcel but a sanitary permit for a new system has been approved.
5. The plan for the new building would include a new septic system and the new residence would be 76' from the water, based on the site plan in Exhibit A-1.
6. The board has considered all the evidence in Exhibit A-1 and all the testimony presented.
7. The Town Board has recommended approval of this variance.
8. A variance in this case is needed to essentially redevelop this lot.
9. Mr. Lobermeier of the Land & Water Conservation Department has prepared a report including a shoreland mitigation plan. That document is part of Exhibit A-1 in the form

- of a letter from Lobermeier to Mr. Bochler dated June 24, 2009. That report notes, among other things that:
- a. The property has no functional buffer and that is causing degradation of the lake.
 - b. Excessive near shore alterations have caused a completely unnatural condition on the shoreline.
 - c. Mr. Lobermeier's shoreland mitigation plan is designed to restore lost habitat, control runoff and improve the quality of Hart Lake.
10. The board finds that the present condition of this lot is likely to cause continuing damage to Hart Lake without some remedial measures.
 11. The land in question is a relatively flat site with a slight slope to the lake.
 12. Because the existing building is less than 600 sq. ft., it cannot be added onto without a variance.
 13. Mr. Bochler was questioned at some length by a number of board members regarding the conditions in Mr. Lobermeier's plan. Mr. Bochler indicated agreement with many points in the mitigation plan but did not agree to removing some of the impervious surfaces, namely cement slabs and retaining walls. Mr. Bochler also expressed a desire to discuss this further with Mr. Lobermeier and come up with some modified plan to which he would be more agreeable.
 14. The board finds that it would be an unnecessary hardship if a variance was not granted in this case. In applying the unnecessary hardship standard the board has considered whether compliance with the strict letter of the restrictions would unreasonably prevent the owners from using the property for a permitted purpose or would render conformity with the restrictions unnecessarily burdensome.
 15. The board finds that to not grant a variance in this case would unreasonably prevent the owners from using the property for a permitted purpose because as things now stand the existing building could not be added onto at all. Moreover, by granting a variance a new building would be built but it would be farther away from the lake.
 16. In applying the unnecessary hardship standard the board has also considered the purpose of the ordinance in question which, among other things, is designed to control water pollution, protect aquatic life, control building sites and prevent the overcrowding of natural resources such as a lake. Preservation of shore cover, which is a problem on this lot, was also very much a factor considered by the board.
 17. The board feels that to grant a variance with proper conditions would have a beneficial effect both on this particular lot and on the neighborhood in general, including Hart Lake. Also, the protection of Hart Lake would serve the larger public interest.

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

1. The new building will not be closer than 76' from the lake.
2. A new septic system will be installed.
3. The applicants will comply with all provisions of the Bayfield County sanitary and private sewage ordinance.
4. The applicants will remove all buildings and the camper trailer from the site.
5. There will be no further development on the site. There will be no further variances granted.

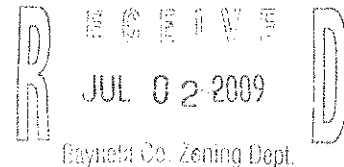
6. There will be no additional impervious surfaces added to the site, with the exception of the 28' x 30' structure that is proposed. That 28' x 30' footprint will include all decks of any description.
7. Compliance with the shoreland mitigation plan contained in Mr. Lobermeier's letter from the Land & Water Conservation Department will be a further condition of this variance. However, the mitigation plan may be modified, but that modification will be in writing, signed and agreed to by Mr. Lobermeier and Mr. Bochler.
8. All of the conditions of this variance, including the shoreland mitigation plan, will be complied with not later than October 1, 2010.
9. The new building will be made of materials and colors to blend in with the natural landscape.

Motion made by Randy Matis, seconded by Phil Lupa to grant the variance with conditions.

MOTION PASSED

VOTE: Yes 5 No 0

Dated: June 30TH, 2009



Randy J. Matis

Members Present: Richard Compton, Randy Matis, Phil Lupa, Jacqueline LaBelle

Also Present: Michael Fauerbach, Attorney for BOA