

DECISION ON SPECIAL EXCEPTION
BY BAYFIELD COUNTY BOARD OF ADJUSTMENT

Case #1
May 28, 2009

Patrick & Lydia Scott are 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 construct an attached 28' x 38' (1,064 sq. ft.) garage 14' from the centerline of a private drive instead of the required 40' as required in Section 13-1-60 (a).

The property is a 1.25-acre parcel (ID# 04-034-2-43-06-17-4-05-001-10000), located in Lot 1 of CSM 1101, Section 17, Township 43 N, Range 6 W, Town of Namakagon, Bayfield County, WI.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Applicants seek a special exception to construct an attached 28' x 38' garage 14' from the centerline of a private drive.
2. The normal setback from a private drive would be 40'.
3. The property is a 1.25 acre parcel located in the Town of Namakagon.
4. The requested location is on the landward side of the residence that is located on Twin Lake.
5. The Town Board has recommended approval with conditions.
6. This Board has considered all of the evidence in the case, including the testimony and the documentation in Exhibit A1.
7. The Board has also considered the fact that the applicants have met with the Town Board at the site and agreed to a smaller size garage (28' x 36') to accommodate the concerns of the Town Board.
8. The Board has considered certain testimony and evidence from Assistant Zoning Administrator Mike Furtak, including the following:
 - a. This lot was created right before the Lakes Classification System was adopted by the county.
 - b. There is a wetland on the other side of the private easement road.
 - c. The private easement road is lightly used, with only one other lot being serviced by that private easement road, past the applicants' location.
 - d. The lot has all natural lake frontage with a fairly new septic.
 - e. In Mr. Furtak's opinion, there are no erosion or stormwater issues of concern.

9. The Board has also considered evidence in Mr. Lobermeier's letter that the applicants have been good stewards of the land and they have managed it in such a way as to protect the adjoining lake.
10. The Board has considered the criteria for special exceptions as set forth in Sec. 13-1-41 of the Bayfield County Ordinance and the Board has specifically considered the following factors:
 - a. The maintenance of safe and healthful conditions.
 - b. The existing topographic and drainage features on the site, including vegetative cover which is natural and plentiful.
 - c. The erosion potential of the site which is minimal.
 - d. The location of the site with respect to existing or future access roads, particularly the private easement road in question.
 - e. The prevention of the overcrowding of a natural resource such as the lake.
 - f. The community or general welfare.

Decision: Based upon all of the above evidence and consideration of the above factors, the Board determines that this special exception should be granted with the following conditions:

- a. All of the points of mitigation recommended by the Land Conservation Department in the Lobermeier letter will be followed.
- b. The garage will be no closer than 20' from the centerline of the private easement road.
- c. There will be no door on the south end of the garage.
- d. The garage will be no larger than 28' x 36'.
- e. There will be no human habitation in the garage.

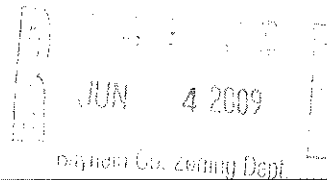
Motion made by Richard Compton, seconded by Phil Lupa, to grant the special exception with conditions.

MOTION PASSED.

VOTE: Yes 4 No 0

Dated: June 1, 2009

Randy Matis



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

Also Present: Michael Fauerbach, Attorney for BOA