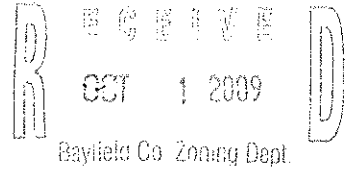


DECISION ON SPECIAL EXCEPTIONS
BY BAYFIELD COUNTY BOARD OF ADJUSTMENT

Case #2
September 24, 2009



Pricilla J. Smith has requested (2) special exceptions from the terms of Section 13-1-32(b)(1) & Section 13-1-22(b)(2) of the Bayfield County Zoning Ordinance. This section requires:

(b) **Inland Lake Lot Requirements.**

1. Except as provided in Section 13-1-26, no land use permit shall be issued for a lot having frontage on a classified lake unless the lot meets the following minimum lot requirements, and except as provided in Section 13-1-22(a)(2), (5) and (6), Section 13-1-40, and paragraphs (2) and subsection (dm) below, any structure thereon shall meet the following minimum setback requirements for the class in which the lake is included: (provided that if an applicable zoning district dimensional requirement in Sec 13-1-60 is more restrictive, it shall apply instead):

Lake Class	Class 2
Side Yard Setback	20' min/ 50' min total

(b) **Highway Setbacks.**

- (2) **Private Road Setbacks.** Structural setbacks from privately constructed streets or roads, including those located on easements providing access to other lots, shall be forty (40) feet from the centerline of the street or road.

The applicant wishes to construct a new residence with decks, porch and attached garage where the existing structures are placed. The applicant is requesting (2) special exceptions for the existing structures due to the configuration of the lot being pie shaped (200' at the ordinary high water mark, and narrows to 60' at the opposite end).

The first special exception is to relocate the existing home (to be used as an art studio in the future) to a reduced setback of 10' from North property line. The second special exception is to relocate the existing garage 10' from the North property line, and 25' from the centerline of the easement road.

The property is a 1.0-acre parcel (ID# 04-021-2-44-06-33-1-05-003-02000), described as Lot "A" of CSM Pages 64 & 65 and being part of Gov't Lot 3, Section 33, Township 44 N, Range 6 W, Town of Grand View, Bayfield County, WI.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The applicant seeks two special exceptions related to setbacks on Jackson Lake.
2. The applicant wishes to construct a new residence with decks, a porch and attached garage where the existing structures are presently located.
3. The applicant requests two special exceptions to allow the existing structures to be relocated.
4. The first special exception is to relocate the existing home (to be used as an art studio) at a reduced setback of 10'.
5. The second special exception is to relocate the existing garage 10' from the north property line and 25' from the centerline of the easement road.
6. This parcel is 1.0 acres located on Jackson Lake.
7. The Town Board recommendation regarding approval or disapproval was never received.
8. This lot is a pie shaped piece of property being 173.38' at the ordinary high water mark and 59.38' at the opposite end. It is a substandard lot of record, being smaller in area and with less frontage than the required 200'.
9. Mike Furtak, Assistant Zoning Administrator for the southern half of Bayfield County testified as follows:
 - a. The applicants have been good land stewards. The land is well vegetated with no erosion problems.
 - b. Even with the addition of all the requested new structures this property would not be over the 15% limit for impervious surfaces and would not exceed 12.5%.
10. The new septic system that is planned can only go in one place, and that makes placement of the buildings more difficult.
11. The applicant has talked to the neighbors on all three sides and they have no objections to these special exceptions. The neighbors on the south would be less close to buildings than they previously were, and the neighbors to the north would be approximately 150' away from any building.
12. The applicant indicated that she is agreeable to the mitigation plan proposed by Mr. Lobermeier of the Land Conservation Department and would also be agreeable to a new septic system being a condition of the special exceptions.
13. The board has considered the criteria for special exceptions under Sec. 13-1--41(b)(4) of the Bayfield County Zoning Ordinance. The board feels that the most important criteria listed there as applied to this case would be the following:

- a. (2) the prevention and control of water pollution.
 - b. (9) the prevention of the overcrowding of a natural resource, such as a lake.
 - c. (10) the potential impact of the proposed use on other lands and land uses in the vicinity.
14. Based upon these criteria the board feels that the special exceptions are appropriate. The relocation of the buildings would likely cause less impact on the lake, particularly if the mitigation plan is complied with.
15. The board has also considered that part of the reason for the special exception is a cooperative driveway agreement which would benefit the applicant and the neighbors.

Decision:

For all of the above reasons, the request for the special exceptions is granted, with the following conditions:

1. The mitigation plan as proposed by Mr. Lobermeier of the Soil Conservation Department will be complied with.
2. The pretreat septic system would be completed by November 1, 2010.
3. At no time could the total impervious surface on this parcel exceed 15% of the area of the lot.

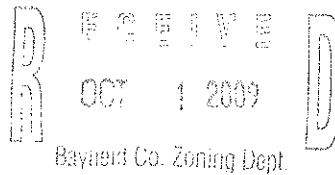
Motion made by Lee Wiesner, seconded by Philip Lupa to grant the special exceptions with conditions. Voting were Randy Matis, Phil Lupa and Lee Wiesner. Dennis Rasmussen abstained and took no part in the consideration of this case.

MOTION PASSED

VOTE: Yes 3 No 0

Dated: SEPT. 30, 2009

Randy Matis



Members Present: Randy Matis, Phil Lupa, Lee Wiesner and Dennis Rasmussen

Also Present: Michael Fauerbach, Attorney for BOA