

DECISION ON VARIANCES AND SPECIAL EXCEPTION BY BAYFIELD COUNTY
BOARD OF ADJUSTMENT

Case 2
March 25, 2010

Darwin Thier requests **2 variances and a special exception** from the terms of Section 13-1-22(a)(2)a; Section 13-1-22(b); and Section 13-1-22(j). Section 13-1-22(a)(2)a states: If a lot platted prior to December 12, 2000, is not deep enough to accommodate required roadway or rear yard and shoreline setbacks, the roadway or rear yard setback may be reduced until a thirty-foot deep building site is established provided the resulting setback is not less than one-half the distance of the required setback. Section 13-1-22(b) states: town road setback is 63' from centerline or 30' from right-of-way line; whichever is greater. Section 13-1-22(j) 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).

These 2 variances and the special exception is to construct a 30' x 30' (900 sq. ft.) garage on a sub-standard lot of record 88' from the ordinary high water mark of Lake Namakagon; 15' from right-of-way / 28' from centerline of Bear Point Road; and 1.5' minimum from the North property line instead of the required 10' as required in Section 13-1-32(b)(2)a and 13-1-60 (a).

The Thier property is a 0.30-acre substandard parcel (ID# 04-034-2-43-06-09-1-05-001-08000) described as the South 100' of North 1313' of Gov't Lot 1, Section 9, Township 43 N, Range 6 W, Town of Namakagon, Bayfield County, WI.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The applicant seeks two variances and a special exception to build a 900 square foot garage on a substandard lot of record.
2. The variances and special exception are required because the garage would be less than 10 feet from the principal structure and, according to the request, only one and one-half feet from the north property line.
3. The applicant currently has a 20 x 20 foot garage 29 feet from the ordinary high water mark of the lake. He wishes to replace it with a 30 x 30 foot garage 88 feet from the lake.
4. The Town Board recommends approval of the variance but suggests that the new garage be set back 5 feet from the north property line.
5. The neighbors, Mr. and Mrs. Krueger, have submitted 2 letters which the board has considered along with all other documentary evidence. They have expressed a concern that the buffer be maintained and that there be no outside storage on the north wall of the garage.
6. Assistant Zoning Administrator Mike Furtak testified regarding this matters, as follows:
 - a. This is a very small lot, somewhere between .3 and .49 acres.
 - b. The existing garage, which is a nonconforming structure close to the water, is also likely to have lead based paint and asbestos, and the picture shows that it is something of an eyesore.
7. The board finds that it would be an unnecessary hardship if a variance was not granted to

- build some type of garage and that if proper conditions were imposed this garage would certainly be less harmful to the lake than the existing garage.
8. In considering whether or not the unnecessary hardship standard has been met, the board has considered whether the compliance with the strict letter of the setback restrictions would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with the restriction unnecessarily burdensome.
 9. In determining that the unnecessary hardship has been met, the board has considered the purpose of the zoning restriction in question which, in part, is to protect the lake which is not presently well protected with the location of the old garage.
 10. The removal of the old garage and the construction of the new one would have a beneficial effect on this property and the neighborhood in general.
 11. It would be in the larger public interest to get rid of the old garage and to revegetate the area where the old garage was located.
 12. In granting the special exception of a reduced side yard setback the board has considered all applicable factors under Sec. 13-1-41(b) of the ordinance.

Decision:

Based upon all of the above circumstances and facts, the request for the two variances and the special exception is granted.

The variances and special exception are granted with the following conditions:

1. All of the conditions and requirements of the Bayfield County Lake and Water Conservation Department report prepared by Mr. Lobermeier and dated March 19, 2010 will be complied with.
2. When the old garage is torn down the construction refuse will be taken to a licensed construction landfill.
3. The siding on the new garage will be of a similar type and color as the principal residence.
4. There will be no storage of any kind on the north side of the new garage.
5. The new garage will be located 5 feet from the north property line and this 5 foot setback will include any overhang.
6. The applicant will have the option of using either a southern or eastern entrance into the new garage.
7. There will be no further buildings or development of any kind on this site, ever.
8. The garage will be located not less than 15 feet from the road right-of-way or 28 feet from the centerline of that road.
9. All of the above conditions will be complied with not later than November 1, 2011.

Motion made by Randy Matis, seconded by Phil Lupa, to approve the variances with conditions.

MOTION PASSED

VOTE: Yes 4 No 0

Dated: 30 March 2010

Randy G. Matis

Members Present: Dennis Rasmussen Philip Lupa, Richard Compton, and Randy Matis
Also Present: Michael Fauerbach, Attorney for BOA

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