

# AGENDA

## BAYFIELD COUNTY BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING

THURSDAY, APRIL 26, 2018  
9:00 A.M.

BOARD ROOM, COUNTY COURTHOUSE  
WASHBURN, WISCONSIN 54891

*Board of Adjustment Members: Randy Matis, Richard Compton, Vice Chairman;; Michael Dresen; Mark Hoefling and Frank Kostka; Dennis Rasmussen-Alternate; Jane Bucy-Alternate; David Siegler, Corp Counsel & MaryAnn Maple, Court Reporter*

8:45 AM Board Members review of document(s)

1. **Call to Order Board of Adjustment Meeting:** Chairman Randy Matis
2. **Election of Chairman:**
3. **Recognition of Board and Staff:**
4. **Minutes of Previous Meeting(s):** (previous meeting(s))
5. **Business:**

**Discussion, Possible Action and Decision of David & Claire (Zigmund) Stokes variance:** (Cases #18-02B).

- ❖ Discussion and Possible Action regarding completion of any unfinished work regarding past meetings and/or cases
- ❖ Discussion and Possible Action regarding attendance at the next meeting.
- ❖ Fill Out Per Diem/Mileage Forms (Requirement)

## 6. Adjournment

**Chairman  
Bayfield County Board of Adjustment**

**Upon the completion of the public hearings, notice is served that the Board of Adjustment pursuant to Sec.19.85 (1) (g) may go into closed session to confer with legal counsel for the Board who is rendering oral or written advice concerning strategy to be adopted by the Board with respect to litigation in which it is or is likely to become involved.**

Any person wishing to attend who, because of a disability, requires special accommodations, should contact the Planning and Zoning office at 373-6138, at least 24 hours before the scheduled meeting time, so appropriate arrangements can be made.

**\*\* Please Note: Receiving approval from the Board of Adjustment at the meeting does not authorize the beginning of construction or land use; you must first obtain your land use application/permit card(s) from the Planning and Zoning Department.**

## MINUTES

Bayfield County Board of Adjustment

April 26, 2018

Board Room, County Courthouse, Washburn, WI 54891

Board Members Not Present: *Dennis Rasmussen, Alternate*

- 1. CALL TO ORDER OF PUBLIC MEETING:** by *Chairman Matis* at 9:00 AM. He stated there is no public hearing today as there is no cases so review of documents is also not necessary.
- 2. ELECTION OF CHAIRMAN:** *Kmetz* stated this item was a typo...she used a template, so this was a mistake.
- 3. RECOGNITION OF BOARD & PLANNING & ZONING DEPT PRESENT:** *Deb Kmetz, Office Manager and Secretary BOA; Dick Compton, Vice Chairman, Town of Bayfield; Randy Matis, Chairman, Town of Grand View; Mike Dresen, Board Member, Town of Delta; Mark Hoefling, Town of Orienta; Frank Kostka, Member, Town of Kelly; David Siegler, Board Attorney (soon to be former brd atty); Jane Bucy, Alternate, Town of Clover; Craig Haukaas, (soon to be) Board of Adjustment Attorney and Sig Maple, Court Reporter.*
- 4. MINUTES OF PREVIOUS MEETING(S):** *Chairman Matis* asked if everyone read the Oct. 26<sup>th</sup> and March 29<sup>th</sup> minutes and asked if there were any omissions, additions or discrepancies. No one spoke.

*Motion by Hoefling, second by Kostka to approve the October 26, 2017 and March 29, 2018 minutes without addition(s)/correction(s); Vote: Kostka-yes; Hoefling-yes; Dresen-yes; Matis-yes and Compton-yes. 5 yes / 0 no.*

### 5. DISCUSSION AND POSSIBLE ACTION AND DECISION OF DAVID & CLAIRE (ZIGMUND) STOKES:

*Chairman Matis* called for decision.

**Case #1 (18-02B)** – David & Claire Zigmund Stokes (20295 W Crystal Drive) are requesting a variance from the terms of Section 13-1-22(a)(1). of the Bayfield County Zoning Ordinance.

Property is a (R-1) and in a shoreland zone with wetlands consisting of a 2.20-acre parcel (ID# 16891), located in Gov't Lot 3, in V. 619, P. 201, Section 32, Township 44 N, Range 6 W, Town of Grand View, Bayfield County, WI.

*Applicant(s) seek to remove existing (1-story) residence (45' x 45' irregular shaped footprint consisting of 1,485 sq. ft.) and construct a new (1.5-story) residence with 3 porches (60' x 42.33' irregular shaped overall footprint consisting of 1,736 sq. ft.) at a height of 21.25'; porch #1 (13.83 x 8' = 110.64 sq. ft.); porch #2 (12.42' x 10.17' = 126.31 sq. ft.) and porch #3 (12' x 16.5' = 198 sq. ft.).*

***Applicants are requesting a 50-ft setback from the OHWM of Crystal Lake instead of the required 75 ft. per ordinance. Existing residence is 42.5' from OHWM.***

*Chairman Matis* asked if everyone looked the decision over. He commented that Atty Siegler had some minor changes he made. He asked if anyone had a conflict or something to suggest. He questioned Atty Siegler if he had anything to say regarding his last case. *Atty Siegler* stated no....it should be ready to go.

*Matis made a motion to approve the decision, seconded by Hoefling. Vote: Compton-yes; Matis-yes; Dresen-yes; Hoefling-yes and Kostka-yes. 5-0 variance request has been denied.*

**6. DISCUSSION AND POSSIBLE ACTION REGARDING COMPLETION OF ANY UNFINISHED WORK REGARDING PAST MEETINGS AND/OR CASES:** *Chairman Matis* asked if there was any.

*Attorney Siegler* was asked for the final decision—he gave it to *Chairman Matis* to sign; *Chairman Matis* signed it and handed it off to *Kmetz*.

*Chairman Matis* asked again if anyone had any unfinished business.

**7. DISCUSSION AND POSSIBLE ACTION REGARDING ATTENDANCE AT THE NEXT MEETING:**

*Chairman Matis* assumed there would be a meeting next month. *Kmetz* stated the board will not have one in May--there are no cases. *Chairman Matis* stated no discussion needed then.

*Dresen* asked to have an item placed on the next agenda. He gave an explanation on why he is increasing uncomfortable with the length it takes to generate a decision and accommodate the development and wonders if new council will consider the possibility to expedite the process so there isn't a month-long delay. He stated we have a very short construction season around here.

*Atty Siegler* explained why the current process was in place.

Comments were made about changes; whether all the board see the changes; voting; walking quorum; approval(s) made at a meeting versus final approval(s); and the process requested during the interview process.

*Atty Siegler* stated this needs to be placed on an agenda before it goes into any type of discussion. *Atty Haukaas* stated he was approached about producing a decision at the end of each meeting and then stated no discussion—this is as *Atty Siegler* stated an item that needs to be placed on an agenda for discussion. *Chairman Matis* asked *Kmetz* to place this item on the next available agenda and asked the two-corp. counsel to do the legal work.

**8. FILL OUT PER DIEM/MILEAGE FORMS:** *Chairman Matis* stated he had completed this and handed it to *Kmetz*.

*Chairman Matis* expressed his thanks to *Atty Siegler* for his tenure. He stated it was a delight to work with him, it was educational (writing style and legal work), and he was impressed with him and is glad to have had the opportunity to work with him (it's been fun and eye opening). *Atty Siegler* expressed his gratitude and commented that it has been a fun 3 yrs. and delightful. He enjoyed working with the board said he will certainly miss it as he hangs up his career. He enjoyed the opportunity and thanked the board as well. Dessert provided by *Chairman Matis* was served in honor of *Atty Siegler's* retirement.

**9. ADJOURNMENT:** *motion made by Kostka, seconded by Compton at 9:18 AM. Vote: Compton-yes, Matis-yes; Dresen-yes; Hoefling-yes and Kostka-yes. Motion passed.*

**Randy Matis, Chairman  
Bayfield County Board of Adjustment**

Prepared by DAK on: 4/26/18-pm  
Draft sent to: *Atty Siegler* and Members on 4/26/2018  
Final Approval: 7/26/2018  
cc: Corp. Counsel; DNR; Board; Supervisors  
k:debsdata/boa/minutes/2018/#4apr26

BAYFIELD COUNTY BOARD OF ADJUSTMENT Bayfield Co. Zoning Dept.

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David Stokes and Claire Zigmund Stokes

DECISION ON VARIANCE

March 29, 2018

Case No. 18-02B

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David Stokes and Claire Zigmund Stokes appeared before the Bayfield County Board of Adjustment on March 29, 2018, in support of their application for a variance filed on February 7, 2018. The Bayfield County Planning and Zoning Department participated through Director of Planning and Zoning Robert Schierman and Assistant Director Tracy Pooler. Board of Adjustment members present were Chairperson Randy Matis and Members Richard Compton, Michael Dresen, Frank Kostka, and Mark Hoefling. The Board of Adjustment Attorney, David J. Siegler, was also present.

THE VARIANCE APPLICATION

The application applies to a 2.2 acre parcel located in Government Lot 3, Section Thirty-two (32), Township Forty-four (44) North, Range Six (6) West, Town of Grandview, Bayfield County, Wisconsin, with a street address of 20295 West Crystal Drive, Grand View, Wisconsin, 54839, Parcel Identification No. 04-021-2-44-06-32-3 05-003-03000. The property is on Crystal Lake.

The applicants seek to remove an existing one-story residence (1,585 sq. ft) and replace it with a new one-and-a half story residence (1,736 sq. ft.).

The applicants applied for a variance from Sec. 13-1-22(a)(1) which requires a 75 foot setback from the Ordinary High Water Mark (OHWM) of Crystal Lake. The existing structure is 42.5 feet from the OHWM. The new structure would be 50 feet from the OHWM.

The Town of Grand View Town Board has filed its written recommendation on the application, supporting the grant of the variance.

Other than David Stokes and Claire Zigmund Stokes, Tracy Pooler, and Robert Schierman, no witnesses spoke either for or against the application. The Board received a letter from the Wisconsin DNR opposing the variance, and copies of emails from four neighbors on Crystal Lake supporting the variance.

Based upon the written materials presented to the Board and the testimony of David Stokes, Claire Zigmund Stokes, Tracy Pooler, and Robert Schierman, the Board makes the following

### FINDINGS OF FACT

1. The existing cabin is 1,585 sq. ft. It lies partially within the 75 foot setback. It is 42.5 feet from the OHWM. The existing garage and guest cabin are also either all or partially within the setback area. Altogether, the three structures total 1,440 sq. ft. within the setback. The north west side of the cabin is beyond the setback area.

2. The proposed cabin would be 50 feet from the OHWM. The proposed cabin would have 1,165 feet within the setback. If the applicants built the cabin as proposed, they would remove all three of the encroaching structures described in paragraph 1, as well as existing concrete walkways.

3. There is a principal structure on the neighboring lot to the east of the applicant's property. It is approximately 40 feet from the OHWM. There is no principal structure on the neighboring lot to the west of the applicant's property. There is a large shed approximately 20 feet from the OHWM.

4. Most of the existing garage is outside of the setback area. The area the garage sits on, as well as the area behind the garage (that is, further from the lake and outside of the setback area) is relatively flat, with contour lines indicating no more than a five foot change in elevation throughout that part of the lot, and in a space large enough to accommodate the proposed structure. The applicant David Stokes testified that the soils in this area may not be suitable for house construction but stated that no soil study had been done and he presented no expert opinion on the matter.

5. The applicants testified that a large amount of fill would need to be brought in to level an area sufficient for the construction of the new cabin at any site other than the one they have proposed. While the slope behind the existing cabin is steeper than the slope behind the existing garage, there is still less than a five foot elevation difference for some distance behind the structure. The applicants testified that they were uninterested in building a cabin with a walk out basement that would reduce the amount of fill required to build in the sloped area.

6. The proposed cabin is closer to the center of the property, providing more space between it and the neighbor's residence than the current building location provides.

7. The physical characteristics of the property do not prohibit the construction of a cabin of a size comparable to what the applicants have proposed, in areas that conform to the setbacks set forth in the Bayfield County Zoning Ordinance.

CONCLUSIONS OF LAW

8. Exhibit 1 is received as evidence.

9. The applicants are permitted, without a variance, to build a new cabin within the footprint of the existing one pursuant to Sec. 13-1-40(f)(3) of the Bayfield County Zoning Ordinance. The same section of the Ordinance allows a 200 sq. ft. lateral expansion of the footprint as long as the expansion does not bring the structure any closer to the OHWM. Once the cabin is beyond the 75 foot setback line, as part of the cabin already is, the applicants could expand the footprint to as large as the proposed cabin and beyond.

10. Because there are not principal structures on the lots that border either side of the applicants' lot, the applicants are not eligible for setback averaging under Sec. 13-1-22(a)(3) of the Ordinance.

11. The applicants have at least one, if not as many as three, general options for using their property for cabin purposes without the need for a variance. They can rebuild on the existing footprint, and expand that footprint landward. They can site an entirely new structure in the vicinity of the current cabin. And they can site a new structure in the vicinity of the current garage. Under these circumstances, requiring the applicants to comply with setback limits does not unreasonably prevent them from using their property for a permitted purpose.

12. In this case, there has been no evidence presented that the fill needed to utilize alternative sites would present an environmental problem. Accordingly, the only problem with the utilization of fill would be a financial one. A financial cost is not sufficient to create unnecessary hardship.

13. To conclude that requiring fill to level an elevation differential of approximately five feet constitutes unnecessary hardship is not in the public interest as by that standard it is likely that the setback limits could be avoided in many cases. The cumulative impact of such setback variances would risk harm to Bayfield County's lakes.

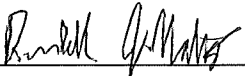
DECISION

Based upon all of the above, the application for variance is denied.  
Motion (Dresen), second (Compton) to deny mediation. Carried, 5-0.

R E C E I V E D  
APR 26 2018

BAYFIELD COUNTY BOARD OF ADJUSTMENT

By:

  
\_\_\_\_\_  
Randy Matis  
Chairperson

26 APR 2018  
\_\_\_\_\_  
Date

Bayfield Co. Zoning Dept.