

Decision on Variance
By Bayfield County Board of Adjustment

Case No. 1

Dale & Christine Westlund has requested a **variance** from the terms of Section 13-1-40(c)(3) of the Bayfield County Zoning Ordinance. This section requires:

Nonconforming Principal Buildings and Structures of 600 Square Feet or Larger. Except as further restricted by the provisions of paragraph (4) below, nonconforming principal buildings and structures of 600 square feet or larger may be improved internally, externally, or expanded provided that:

a. A structure that is nonconforming as to structural or dimensional standards may not be expanded or enlarged so as to increase its dimensional nonconformity.

b. Where practicable, additions to nonconforming buildings and structures shall conform to all applicable provisions of this Chapter.

c. Except as provided in paragraph (4)d. below, the lifetime total of all expansions shall not exceed fifty percent (50%) of the structure's footprint that existed at the time the structure became nonconforming; an owner shall provide documentation of the footprint of a structure at the time it became nonconforming, and any expansion shall be documented by recorded affidavit.

Applicants' parcel is a substandard lot of record dated (Oct 10, 1960); with the residence being only 28' from the south property line instead of the required 75'. Applicants' seek to construct a 24' x 24' (576 sq. ft) addition consisting of 2 bedrooms to their residence. This variance is requested because an addition constructed in 1996 maxed out the 50% rule regarding the structural footprint, which means no further expansion(s) are allowed.

The Property is a 3-acre parcel (ID# 032-1057-07-000), located in part of the Northwest Quarter of the Southwest Quarter (NW ¼ SW ¼), Section 29, Township 46 N, Range 6 W, Town of Mason, Bayfield County, WI.

Findings of Fact and Conclusions of Law

1. Section 13-1-40(c)(3) requires that non-conforming buildings 600 sq. ft. or larger shall be allowed lifetime expansions not to exceed 50% of the footprint that existed when the structure became non-conforming.
2. The applicants' parcel is a substandard lot of record, created on approximately October 10, 1960. The residence is only 28' from the south property line instead of the required 75'.
3. The applicants seek to construct a 24' x 24' (576 sq. ft.) addition consisting of two bedrooms, to the residence.

4. The addition would be 45' from the south property line, so there would be no additional encroachments since part of the residence is already within 28' of the south property line.
5. The variance is requested because an addition constructed in 1996 used up the 50% allowable lifetime expansion of the structural footprint.
6. The town board has recommended approval of the variance.
7. The board has considered as part of Exhibit 1A nine letters supporting the variance, including two from counseling professionals and a letter from the State of Wisconsin Department of Health & Family Services. These letters confirm that the applicant's daughter has special psychological issues and needs that require a larger home.
8. A larger home would be a benefit to not only this particular daughter but it would benefit the well being of other family members.
9. Zoning & Planning Administrator Karl Kastrosky indicated the following:
 - a. This home is in a remote area unlikely to be developed in the future.
 - b. The 75' setback is to prevent neighbors from overcrowding, but that really is not a problem because this is a rural, relatively unpopulated area.
 - c. Because of the remote nature of this rural site the variance would not violate the intent of the ordinance.
10. Zoning employee Travis Tulowitzky talked to the adjoining landowner to the south, Mr. Tyler Paulson on the telephone. Mr. Paulson was aware of the meeting and knew that he had a right to object to this variance. He did not object to the variance or come to the meeting. Mr. Tulowitzky also mentioned to Mr. Paulson that Mr. Westlund was still interested in purchasing land from Tyler Paulson.
11. Mr. Westlund testified that he has tried to buy the adjoining property to the south since 1996; once when the land was owned by Bayfield County and one or more times when it was owned by Mr. Paulson. These efforts have been unsuccessful.
12. On October 26, 2006 the septic system was upgraded with a holding tank. Mr. Tulowitzky does not feel that other conditions of this variance would be required.
13. The board finds that it would be an unnecessary hardship if this variance is not granted. In determining that this is an unnecessary hardship the board has considered whether compliance with the strict letter of the restriction governing the setback would unreasonably prevent the owner from using the property for a permitted purpose.
14. In determining that this is an unnecessary hardship the board has considered, among other things, the following:

- a. The 2 acre parcel to the south of the applicants' home is similar to a wetland in that it prevents further development of the home.
- b. The home was already built on this site within the setback area through no fault of the applicants.
- c. The applicants have special needs children that are in need of, among other things, a larger home.

Decision: For all of the above reasons the variance requested by the applicants is granted.

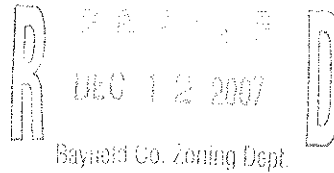
Motion made by Wiesner, seconded by Matis to grant the variances.

MOTION PASSED.

VOTE: Yes 5 No 0

Dated: Dec 12 2007

Randy Matis



Members Present: Randy Matis, Phil Lupa, Lee Wiesner, Richard Compton, Kerry Tetzner

Also Present: Michael Fauerbach, Attorney for BOA