



Sawyer County

Agenda

Zoning Board of Appeals Meeting

Tuesday, June 20, 2023 @ 5:00 PM

Sawyer County Board Room; Sawyer County Courthouse

Page

1.

The public is strongly encouraged to access the public hearing remotely due to public health and safety concerns. To view or participate in the **virtual meeting** from a computer, iPad, or Android device please go to <https://zoom.us/j/91511740175>. You can also use the dial in number for listening only at [1-312-626-6799](tel:1-312-626-6799) with the Webinar ID: 915.1174.0175. If additional assistance is needed please contact the Zoning & Conservation Department at 715-634-8288 prior to the meeting.

2. PRELIMINARY MATTERS

- a. Call to Order and Roll Call
- b. State of Committee and Hearing Procedure
- c. Statement of Hearing Notice
- d. Approval of Minutes from February 21, 2023
[2-21-23 BOA Minutes](#)

3 - 4

3. VARIANCE APPLICATIONS

- a. A Public Hearing in the Town of Edgewater. VAR #23-001. Owner: Crystal Springs Condominium Association, Inc. Chrystal Springs Condominium; S05, T37N, R09W; Parcel #008-210-00-0100 through 0500; 1.51 total acres; Zoned Residential/Recreational One. Application for the construction of a detached accessory structure (garage) for a 5-unit condo. The size of the proposed garage is requested as 18'5" x 60' (20.5' x 62') including eaves. This would replace an existing garage that is 18.5' x 36.5'. The garage would be located 18.5' at the closest point to the centerline of Hwy F. Variance requested as: Section 4.21 (2) of the Sawyer County Zoning Ordinance would require the prior granting for any structure closer than 75' to the centerline of a County Highway. The proposed is being requested at 38.5' to the centerline. Discussion/Action.

5 - 27

[VAR #23-001, Crystal Springs Condo pkt.](#)

- b. A Public Hearing in the Town of Hayward. VAR #23-002. Owner: Scott Daul & Daniel Daul. Part of Government Lot 4; S36, T41N, R08W; Parcel #010-841-36-5415; .380 total acres; Zoned Residential/Recreational Once.. Application for the construction of a 20' x 60' deck area to provide flat access area for ADA compliance for a bar/restaurant area called "The Dock". Also to provide additional table areas for outdoor seating. The proposed deck area would be located as close as 9' to the high water mark of Round Lake. Variance requested as: Section 6.1 (1) Sawyer County Shoreland-Wetland Protection Ordinance, would require the prior granting of a Variance for any structures closer than 75' to the ordinary high water mark. The proposed 20' x 60' deck would be located 9' at the closest point. Discussion/Action.
[VAR #23-002, Scott & Daniel Daul \(The Dock\) pkt.](#)

4. APPEALS

- a. None

5. NEW BUSINESS

- a. Any new business that may come before the Board. (Discussion Only)

6. ADJOURNMENT

**MINUTES
PUBLIC HEARING BEFORE THE
SAWYER COUNTY BOARD OF APPEAL
February 21, 2023**

Board of Appeals

Al Gerber, Chairman
Laura Rusk
Steve Kelsey
Dee Dobilas
Gordon Christians
Jim Tiffany

ZONING ADMINISTRATION

Jay Kozlowski, Zoning & Conservation Administrator
Kathy Marks, Deputy Zoning & Conservation Administrator

PRELIMINARY MATTERS

1) Call to Order and Roll Call. Gerber called the Public Hearing before the Sawyer County Zoning Board of Appeals to order at 5:00 P.M. in the Sawyer County Courthouse, 10610 Main St., Hayward, Wisconsin. Roll is called finding present: Gerber, Rusk-virtual, Kelsey, Dobalis-virtual, and Tiffany. Kozlowski and Marks are present from the Zoning office.

2) Statement of Board and Hearing Procedures and Hearing Notice. Those wishing to speak will be afforded the opportunity provided they identify themselves. Gerber gave order of submitting files to BOA, taking testimony, and making a decision. He requests orderly procedure and gives appeal deadline. The Public Hearing Notice was published as a Class 2 Notice in accordance with Chapter 985 of the Wisconsin Statutes in the Sawyer County Record and Sawyer County Gazette.

3) Minutes from previous meeting. Motion to approve the October 18, 2022 minutes by Rusk, second by Dobalis. All in favor.

VARIANCE APPLICATIONS

None

NEW BUSINESS

1) VAR#21-005: Circuit Court overturned Board of Appeals (BOA) decision. BOA to accept Circuit Court Decision thus denying variance OR BOA to appeal Circuit Court Decision. Kozlowski explains what the Board is voting on with the Miller case VAR #21-005 and the Circuit Courts decision. Discussion with Kozlowski is held. Motion by Rusk to affirm the decision by the Circuit Court, second by Kelsey. No discussion. All in favor. 5 to 0. Motion passes.

2) Any other business that may come before the Committee for discussion. Gerber asks if the 5pm start time is working for the members. Everyone one is good with that time.

ADJOURNMENT

Motion to adjourn by Gerber, second by Kelsey, all in favor.

Minutes prepared by Kathy Marks, Deputy Zoning & Conservation Administrator.

DRAFT



Sawyer County Zoning & Conservation Department

10610 Main Street, Suite 49

Hayward, WI 54843

jay.kozlowski@sawyercountygov.org

Fax (715) 638-3277

(715) 634-8288

VARIANCE REQUEST STAFF REPORT

Applicant:

Crystal Springs Condo

Agent: John Vardas

Property Location:

Town of Edgewater. Crystal Springs Condo. Sec 05 T37N R09W. 1.51 total acres zoned Residential/Recreation-One (RR-1). Site address: 2258N County Hwy F

Summary of Request:

The applicant(s) are requesting a variance for the construction of an 18.5' x 60' shared condo garage (20.5' x 62' with eaves total). The proposed 5-unit shared garage would be located 38.5' at the closest point to the centerline of County Hwy F (a County Highway) and 5.5' to the right-of-way line. The proposed garage is replacing an older garage unit within the existing footprint but expanding an additional 23.5' x 18'5" further to the South. The existing garage is 18.5' x 36.5' and measured at the same road setback. As per Section 4.21(2) of the Sawyer County Zoning Ordinance would require the prior granting of a variance for any structure located closer than 75' to the centerline of a County Hwy. All other setbacks are to be met.

Project History/On-site Notes/Comments:

An onsite inspection was conducted on 3/27/23 by Jay Kozlowski. At the time of onsite a proposed building location was laid-out on the property. The existing garage structure is beyond repair and would need a full replacement. As part of this request the condo association would also like to make the garage big so that each of the 5 unit owners would have their own 12' x 18'5" space available for a total of 60' x 18.5. This expansion would require granting of a variance but the setback distance to the road does not change for where the existing building is located.

The proposed impervious surfaces for this lot with a variance approval would be approximately 10.4%. No other area exists on the property to fit a similar size structure without major grading, slope alteration, septic system relocation, and driveway re-location. The Condo association has also identified a potential low-lying area that could be utilized for a rain garden to help control garage runoff. The proposed garage would be approximately 85' to the OHWM and all other setbacks would be met.

Hardship/Justification:

Variances seek a relaxation of a standard in the code. The decision to grant a variance must be supported by practical justification, which includes 1.) That the code is unnecessarily burdensome and the landowner is not able to enact a permitted use without a relaxation of the standard; 2.) There are unique limitations on the property that prevent the landowner from meeting the required dimensional standard; and 3.) if the variance is granted, no harm will be done to the public interest or the zoning code. It is the applicants' responsibility to present the case and provide the "burden of proof" as to why the variance should be granted. The personal situation of the applicant, financial hardship, convenience, a growing family, or nearby violations cannot be considered as valid reasons to grant a variance.

Board Decision Checklist:

(Approval Reasons): An unnecessary hardship is present and the current code requirements would be unnecessarily burdensome and prevent the applicant from using the property for a permitted use because:

(Board of Appeals to choose specific conditions unique to property. May add or delete to this list):

1. No other alternatives exist.
2. The impacts of construction are being minimized by mitigation.
3. A minimal relaxation of code is being granted.
4. A permitted use is not possible on this property without a variance approval.
5. The circumstances are beyond the control of the applicant, and are unique to the property not the applicant.
6. The lot predates zoning regulations.
7. The construction matches the lot and available area.

The hardship/unreasonably burdensome limitation of setbacks is due to unique physical features or limitations of the property and not the circumstances of the applicant as follows: (Board of Appeals to choose specific conditions unique to property. May add or delete to this list):

1. Very little or no buildable area exists.
2. The buildable area lot is very narrow.
3. The lot depth is very shallow.
4. Steep slopes exist.
5. The setbacks overlap here.
6. There is no other room for a septic system.
7. Overall small lot size.
8. Erosion exists.

The variance will not harm the public interest or neighboring land uses, and damage the intent of the zoning code because: (Board of Appeals to choose specific conditions unique to property. May add or delete to this list):

1. Visibility is good at the driveway location.
2. Traffic is light.
3. The septic will be upgraded.
4. Traffic is slowed here.
5. A turnaround is proposed.
6. This would make a bad situation better.

7. Good vegetation exists or is proposed.
8. The proposed use will not harm the public, zoning code, or neighboring land uses if conditions are followed.
9. A literal enforcement of the zoning code would be unnecessarily burdensome.
10. The testimony in opposition has been considered but no valid reasons could be found to deny.

(Approval Conditions): Therefore, the requested variance is hereby **approved** with the following conditions: **(add or delete as needed):**

1. The development must be in substantial compliance with the site plan and testimony provided at the public hearing.
2. The first floor elevation and filling and grading shall be done in accordance with the site plan and additional information provided at the public hearing.
3. The non-conforming _____ must be removed within ____ days from the time the Land Use Permit is submitted.
4. All other required setbacks must be complied with.
5. All permits must be obtained, including land use, building, and sanitary.
6. All code requirements must be complied with.
7. It is the responsibility of the builder and landowner to protect the neighboring lots, lake, and road during construction.
8. Standard or Individual (pick one) erosion control and/or stormwater management plans (again either or both can be picked) must be in place prior to construction starting.
9. The driveway shall meet all code specifications and shall provide suitable turnaround to prevent backing onto the road.
10. The applicant will allow agents of Sawyer County access to the property to ensure compliance with the terms of this decision, Sawyer County codes, and state and federal Laws.
11. The Board agrees with the concerns of DNR but on-site observations and conditions of approval should mitigate those.

(Denial Reasons): Unnecessary **hardship is not present** and the code requirements are not unnecessarily burdensome and **will not prevent the owner from using the property for a permitted use because (Board of Appeals to choose specific conditions unique to property) :**

1. The land owner has reasonable use already.
2. Cumulative impacts can be foreseen.
3. A self-imposed hardship cannot be grounds for an approval.
4. The Board concurs with the concerns expressed by _____.
5. Other alternatives exist such as building in another location or building a smaller structure.
6. A loss of profit or inconvenience is not a hardship.

The hardship is not due to unique physical features or limitations of the property and appear to be unique to the applicant as follows **(Board of Appeals to choose specific conditions unique to property):**

1. There are many other similar lots in area.
2. The code requirements are not unnecessarily burdensome and should be adhered to.
3. The hardship is unique to the property owner.
4. This is a self-imposed hardship.
5. No hardship noted.
6. A loss of profit is not a hardship.

7. No unique lot features were noted by the Board.

The variance will harm the public interest or neighboring land uses, and damage the intent of the zoning code because **(Board of Appeals to choose specific conditions unique to property):**

1. An approval would set a precedent.
2. Public safety could be compromised.
3. This would make a bad situation worse.
4. An increase in water runoff and erosion is anticipated.
5. Harm to water quality is anticipated.
6. The proposal appears to be for convenience to the landowner only.
7. An approval would undermine the code and harm the neighboring properties and public interest at large.
8. The landowner should pursue other locations or building plans.

(Denial Conditions): Therefore, the requested variance is hereby **denied** with the following conditions **(Board of Appeals to choose specific conditions unique to property):**

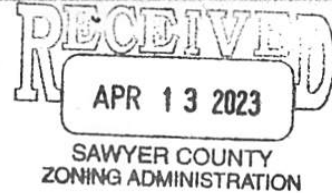
1. The _____ must be removed within _____ days
2. The applicant will allow agents of Sawyer County access to the property to ensure compliance with the terms of this decision, Sawyer County Codes, and State and Federal Laws.

(Tabled): The requested variance is **tabled** to the () business meeting or () public hearing scheduled for _____, 2021.

1. This will allow the applicant to complete the following:
2. The applicant is instructed to contact the _____ to attempt a resolution.
3. A plat of survey or Certified Survey Map must be made to accurately locate lot lines, buildings, and ROW's.
4. A better site plan with elevations drawings is necessary.
5. An erosion control and stormwater management plan is required, and must be approved by ZAC to address those issues.



Town of Edgewater
County of Sawyer



Variance Application # 23-001

TO: Sawyer County Zoning & Conservation Administration
10610 Main Street, Suite #49
Hayward, Wisconsin 54843

Email: Kathy.marks@sawyercounty.gov
Phone: 715-634-8288

Owner: CRYSTAL SPRINGS CONDOMINIUM ASSOCIATION - JOHN VARDAS - PRESIDENT

Address: 6546 LUCIA LANE NE FRIDLEY, MN 55432

Phone number: (612) 327-4171 E-mail address: jwardas@earthlink.net

Property Description: Crystal Springs Condo, S05, T37N, R09W, #2258N
County Hwy F

Acreage: 1.51 Zone District: RR-1

Application is for: The construction of a detached accessory structure (garage) for a 5-unit condo. The size of the proposed garage is requested as 18.5' x 60', (20.5' x 62') including eaves. This would replace an existing garage that is 18.5' x 36.5'. The garage would be located 38.5' at the closest point to the centerline of Hwy F.

Variance is requested as: Section 4.21(2) Sawyer County Zoning Ordinance would require the prior granting for any structure closer than 75' to the centerline of a County Highway. The proposed structure is being requested at 38.5' to the centerline.

Public Hearing Date: June 20, 2023
Other Information:

Signature of Agent(s)

Signature of Owner(s)

JOHN VARDAS - PRESIDENT

The above person(s) hereby make application for a variance. The above certify that the listed information and intentions are true and correct. The above person hereby gives permission for access to the property for onsite inspection.
(January 2021) \$750.00



Town of Edgewater
County of Sawyer

Variance Application # 23-001

TO: Sawyer County Zoning & Conservation Administration
10610 Main Street, Suite #49
Hayward, Wisconsin 54843

Email: Kathy.marks@sawyercountygov.org
Phone: 715-634-8288

Owner: Crystal Springs Condo
Address: Vardas Rev. Trust (PWS.) 4546 Aurora Dr. NE Shirley, MN 55432
Phone number: 612-327-4171 E-mail address: JVardas@earthlink.net

Property Description: Crystal Springs Condo, S05, T37N, R09W, #2258N
County Hwy F

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(January 2021) \$750.00

Real Estate Sawyer County Property Listing

Today's Date: 4/6/2023

Property Status: Current

Created On: 2/6/2007 7:55:14 AM



Description

Updated: 3/8/2023

Tax ID:	7915
PIN:	57-008-2-37-09-05-5 16-618-000100
Legacy PIN:	008210000100
Map ID:	-12.1
Municipality:	(008) TOWN OF EDGEWATER
STR:	S05 T37N R09W
Description:	CRYSTAL SPRINGS CONDO DECL 357/386 UNIT 1 & 1/5 INT IN COMMON ELEMENTS
Recorded Acres:	0.300
Calculated Acres:	0.015
Lottery Claims:	0
First Dollar:	Yes
Waterbody:	Chetac Lake
Zoning:	(RR1) Residential/Recreational One
ESN:	430



Tax Districts

Updated: 2/6/2007

1	State of Wisconsin
57	Sawyer County
008	Town of Edgewater
650441	Birchwood School District
001700	Technical College



Recorded Documents

Updated: 3/28/2019

QUIT CLAIM DEED	
Date Recorded: 3/28/2019	<u>417057</u>
CONDO DECLARATION AMENDED	
Date Recorded: 12/27/2017	<u>410417</u>
SHORELAND RESTORATION/PRESERVATION AGREEMENT	
Date Recorded: 4/30/2014	<u>390180</u>
WARRANTY DEED	
Date Recorded: 9/2/2004	<u>324715</u>
CONDO DECLARATION AMENDED	
Date Recorded: 3/15/1985	<u>194931</u> 372/273
CONDO DECLARATION AMENDED	
Date Recorded: 1/9/1984	<u>189866</u> 358/382



Ownership

Updated: 3/8/2023

VARDAS REV TRUST	FRIDLEY MN
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Billing Address:

VARDAS REV TRUST
6546 LUCIA LN NE
FRIDLEY MN 55432

Mailing Address:

VARDAS REV TRUST
6546 LUCIA LN NE
FRIDLEY MN 55432



Site Address * indicates Private Road

2258N COUNTY HWY F	BIRCHWOOD 54817
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Property Assessment

Updated: 6/28/2021

2023 Assessment Detail

Code	Acres	Land	Imp.
G1-RESIDENTIAL	0.300	70,000	50,400

2-Year Comparison

	2022	2023	Change
Land:	70,000	70,000	0.0%
Improved:	50,400	50,400	0.0%
Total:	120,400	120,400	0.0%



Property History

N/A

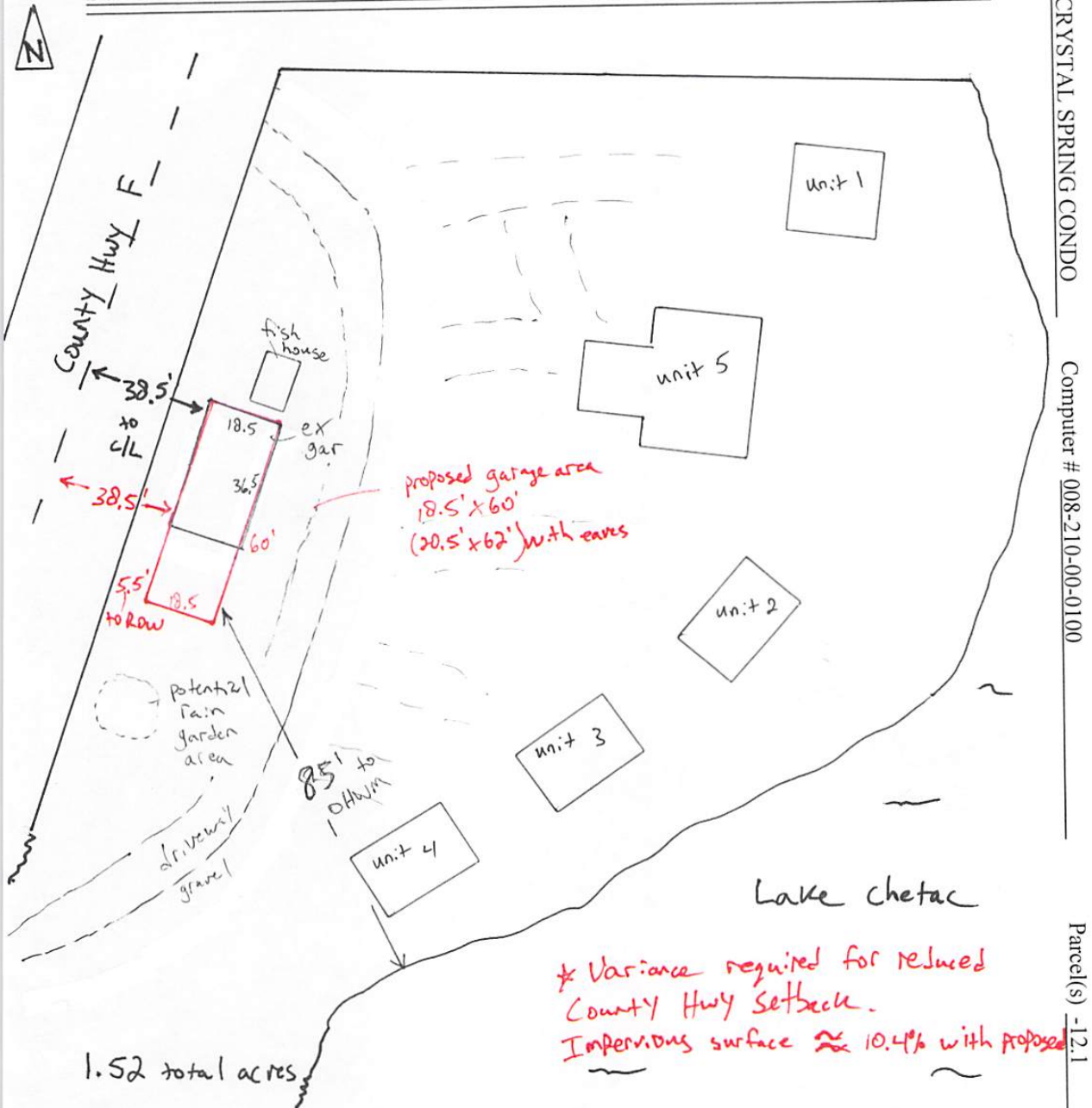
Agent

**Sawyer County Zoning Administration
Inspection Report**

Owner(s) Crystal Spring Condo Association
 Address 2258N County Hwy F
 Agent/Purchaser John Vardas
 Address 6546 Lucia Ln NE Fridley, MN 55432
 Bldr/Plber/CST _____
 Address _____

Inspection ☒ Private ☐ Public Violation ☐ Zoning ☐ Sanitation
☐ Dwelling ☐ Mobile Home ☐ Commercial ☒ Garage ☐ Addition
☐ Setback - Lake ☒ Setback - Road ☐ Setback - Lot Line ☐ Soils Verification
☒ Proposed Garage - Variance Required

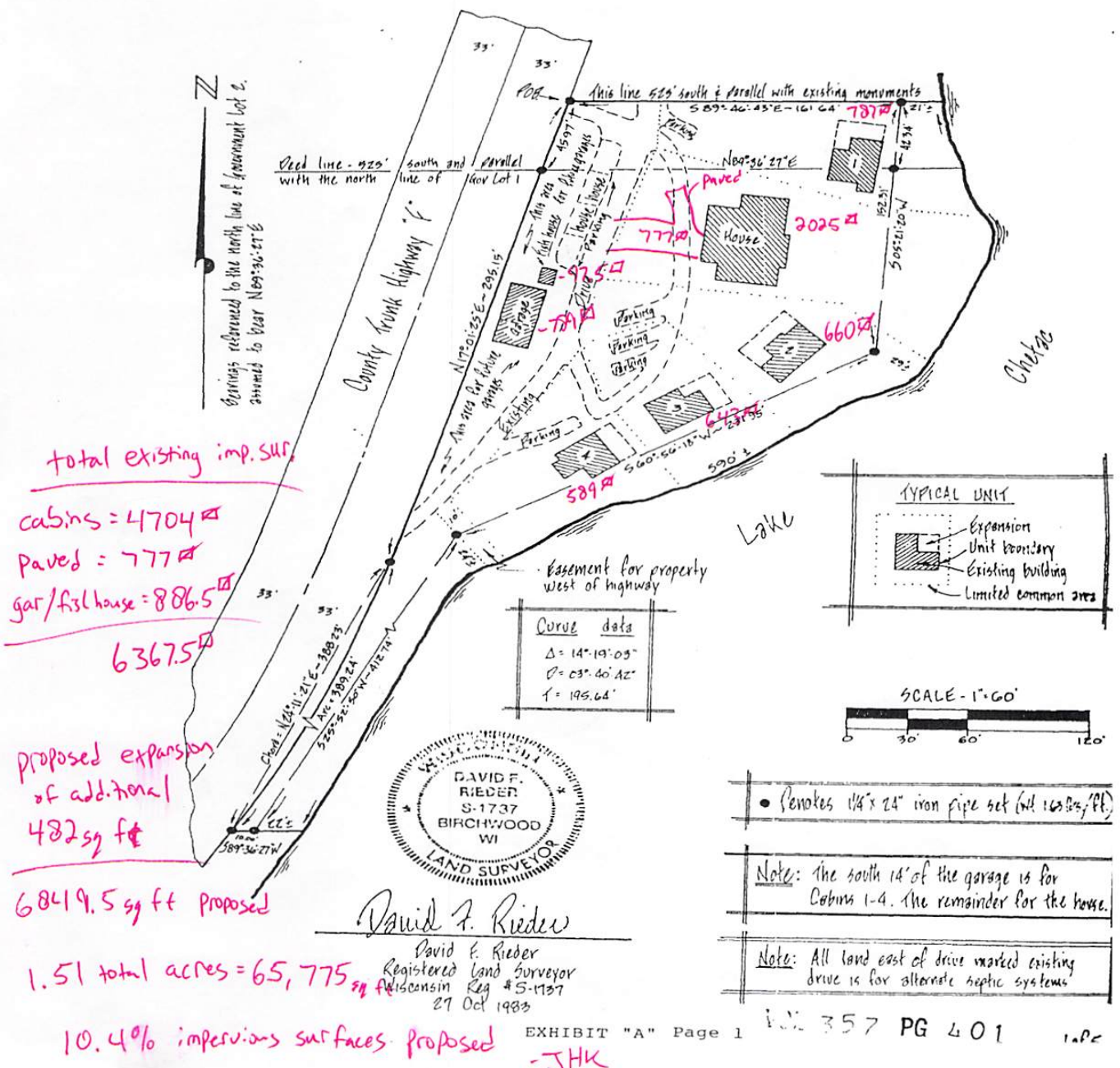
Decl 357/386 1.52 Acres RR-1 #2258N County Hwy F (Crystal Springs Condo)



Discussed with John Vardas-President and Jay Kozlowski
 Date & Time 03/27/23 11:00 AM
 Signature of Inspector Jay Kozlowski

Owner(s) VARDAS, JOHN Town of EDGEWATER Govt Lot _____ 1/4 _____ 1/4 S 05 T 37 N R 09 W
 Lot(s) _____ Blk(s) _____ Subdivision CRYSTAL SPRING CONDO Computer # 008-210-00-0100 Parcel(s) -12.1

Part of Government Lot 2 - Section 5 - T37N-R9W



APPLICATION FOR VARIANCE
SAWYER COUNTY BOARD OF APPEALS
ADDITIONAL INFORMATION
(To be completed by applicant)

Completed by John V Vardas
(First Name) (MI) (Last Name)

The purpose of this form is to provide you with information that pertains to the granting of "area/dimensional" variances and to assist you in preparing for your presentation before the Sawyer County Board of Appeals. Use additional paper for responses if required. Example responses are not related to any variance ever reviewed by the Board of Appeals. **This form will become a part of your application packet and is to be returned to the Zoning Department by the variance application deadline.**

Part 1. Applicant supplied Information.

Current use of your property & improvements - (e.g., "Property contains a residential home with a detached garage.").

Property is a 5 unit condo association consisting of 4 seasonal cabins, house, shared garage and fish cleaning shack. Some units are being converted to year-round use.

Describe the variance requested – (e.g., "Add a 15' x 20' addition to the side of the home.").

We request a variance to replace an existing 18.5' x 36.5' garage in disrepair with a 18.5' x 60' garage extending south along the existing footprint. The new building would have 5 individual stalls with 10' wide doors.

Describe the effects on the property if the variance is not granted – (e.g., "The addition is required for year-round living and protecting property value.").

The new garage would allow individual, secure storage for each unit owner in keeping with modern storage needs of today. Replacing the garage/storage of our association is crucial in in keeping property values growing, maintain property standards, to prevent theft, improve and maintain the aesthetic and beauty and improve usability of the property.

Additionally, the seasonal units are being improved for year-round use. Items such as kayaks, canoes and other such outdoor items that in the past have been stored in the cabins living areas in the off season no longer have that space available. Year round use of the cabins eliminates that temporary solution that may have worked in the past.

Describe alternatives to the requested variance such as other locations, designs and construction techniques. Attach a site map showing alternatives that you considered in each category below.

- a) Alternatives you considered that will comply with existing standards. If you find such an alternative, you may move forward with this option with a regular permit. If you rejected compliant alternatives, provide the reasons that you rejected them.
(e.g., "Space is not available to expand in any other direction or location. House is too close to the side lot lines and the lake.")

Building on the original footprint is preferred in keeping with the original design and traffic flow of the existing plat layout. Being an old former resort, the property is compacted between the roadway and Lake Chetac with no real viable open extra space.

Attempting other locations on the property encroaches on unit owners limited common property, utilities, general traffic access, dedicated unit parking, individual unit access and utility and service access (ie. garbage, sewer, well and fire service vehicles).

- b) Alternatives you considered that require a lesser variance and reasons you rejected them.
(e.g., "Addition is the minimum size that is required.").

We need to expand because working within the existing footprint does not provide enough usable, individual, secure storage for unit members. We chose the dimensions to allow for what would be considered normal storage items.

We chose to maintain the original depth of 18.5' to allow for long items such as kayaks and canoes. The length (60') was determined to give each owner approximately 10' wide space (allowing for construction needs) with the potential to allow for storing larger items such as an ATV. Our intent is to create storage but not full garages for each unit. This building is more in line with a rental storage facility type structure.

Describe the impact on your property and adjacent properties if the variance is granted.

(e.g., "Erosion during construction – will be controlled with silt fencing. After construction there will be a greater impervious surface area. Gutters and downspouts will be used to divert water away from other properties and the lake. Shoreline buffer zone will be planted with native vegetation, trees and shrubs.").

Erosion control measures will be applied where necessary. Due to the location adjacent properties should not be greatly affected by construction. Impervious surface area will increase but the design takes into consideration water runoff improvement.

The roof style will deflect the majority of rainwater to the ditch area between the garage and the roadway. It will divert to a planned rain garden south of the building to allow water to absorb into the ground and limit direct runoff into Lake Chetac.

Gutters/drainage will divert water coming from the front roofline and driveway into the rain garden as well as improving the over all driveway drainage.

The height of the building is designed with a lower slung roof style that will blend in to be unobtrusive from the roadway. Muted colors will be used to help blend the structure into the natural area. It is the intent to make the building aesthetically pleasing and keep with the style of the other nearby buildings.

Part 2: Three-Step Test.

To qualify for your requested variance, you must demonstrate that your **property** meets the following three requirements. *This is known as the "three-step test."*

1) Unique Property Limitations.

Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with ordinance requirements. The circumstances of an applicant (growing family, need for a larger garage etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances or lack of objections from neighbors or the Town Board do not provide a basis for granting a variance.

Do unique physical characteristics of your property prevent compliance with the ordinance?

Yes. Where are they located on your property? Please show the boundaries of these features on the site map that you used to describe alternatives considered.

(e.g., "There is a wetland area that extends around one side of the house and also behind the house.").

No. A variance cannot be granted.

2) No Harm to Public Interests.

A variance may not be granted which results in harm to public interests. In applying this test, the Board of Appeals must consider impacts of your proposal and the cumulative impacts of similar projects on the interests of the neighbors and the entire community. Some, but not necessarily all of these considerations are: (1) Public health, safety and welfare, (2) water quality, (3) fish and wildlife habitat, (4) natural scenic beauty, (5) minimization of property damages and (6) achievement of eventual compliance for nonconforming uses, structures and lots.

Explain how the granting of this variance would not harm the public interests or how it may even enhance the public interests.

By granting the variance we are removing a failing and obsolete building and replacing it with a new one that meets modern storage needs of current owners thereby increasing property values and maintaining future salability of the property. It will also protect the overall security of the neighboring area by creating secure storage to prevent theft.

As some units are being converted to year-round status doing so will increase money brought into the community by extending the time members can use their units. A large part of this conversion is dependent on have alternative storage on the property.

3) Unnecessary Hardship.

An applicant may not claim hardship because of conditions which are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home.). Courts have also determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than just a portion of the parcel.

You are applying for an “area variance.” An area variance relaxes a dimensional standard such as a setback, frontage, lot area, or height. For an area variance, unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. The importance of the public purposes of the ordinance, the degree to which the restriction supports those purposes and the extent of the

relaxation of the restriction are weighs against the limitations full compliance would impose on use of the property.

Is unnecessary hardship present?

Yes. Describe.

We are a condo association that is in need of storage to secure each unit owners personal property. It is well known that storage is crucial in northern Wisconsin harsh winters for property protection from elements. The current garage is a remnant of when the condo was a former resort. It is currently unusable, in disrepair and was not built to meet the needs of current condo property owners by providing individual and secure storage.

As a condo association, we are limited by the plat layout of the property. We do not have a sizable common property area. Most of it is driveway and does not have the size shape available for a garage relocation and or it would encroach on the lake setback. The size and shape of the common property the association property in general combined with limitations with road and lake setback limit viable alternative site options.

Other locations would limit the individual use by unit owners of their limited common property by interfering with their designated private parking and access to their units. Any location other than the original footprint would require major rewriting of the condo declaration. The current proposal falls within the original platted garage expansion area.

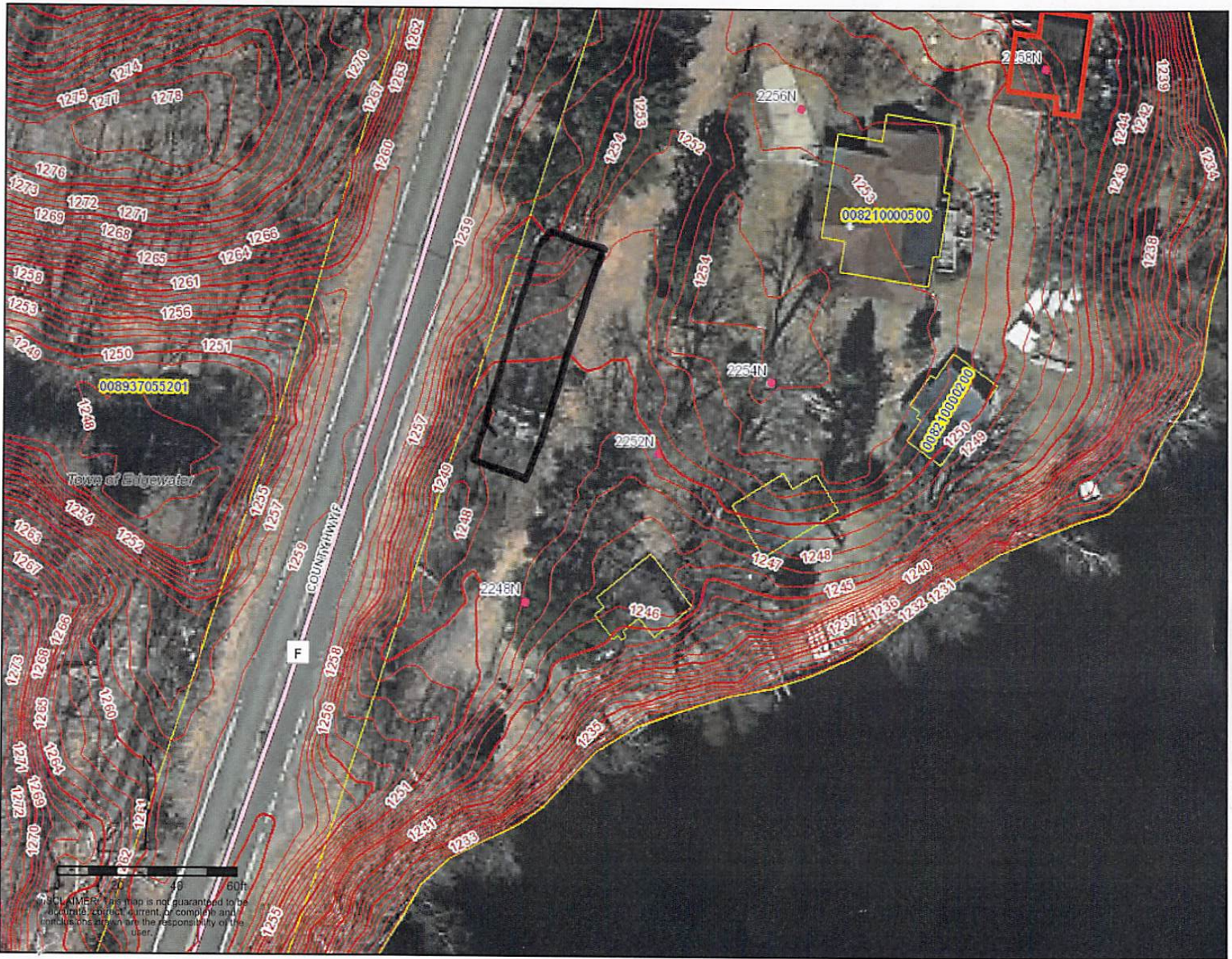
Expanding on the original footprint maintains the existing designed driveway traffic flow for access to property for owners and their guests. Equally, if not more important, easy, straight forward access for larger garbage, utility, well service and fire trucks is required for those services to have ability to maintain the property and access each unit owners limited common property. As it is, the area is already a tight fit for larger trucks and alternate locations would make it much worse.

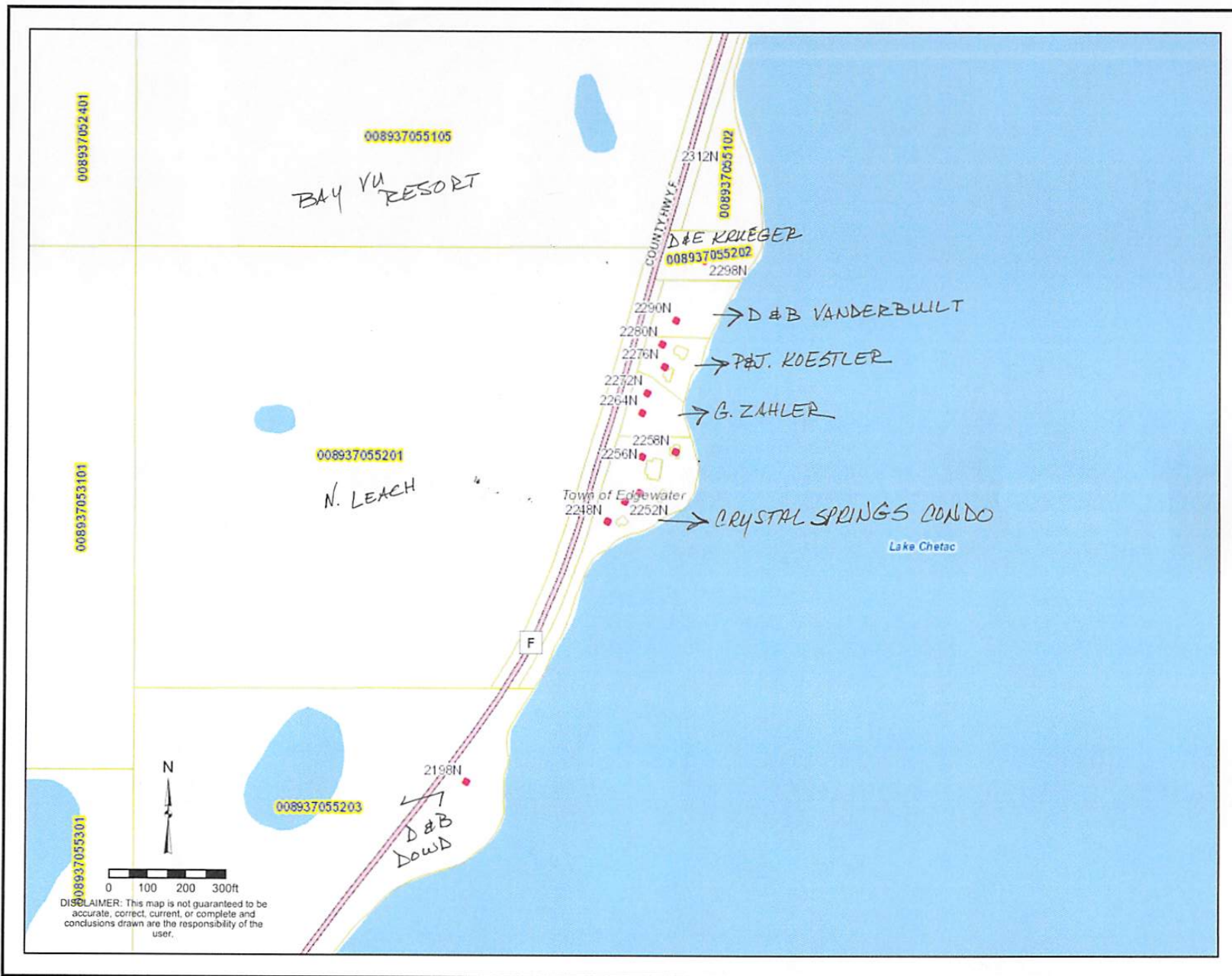
Alternate locations would impair the drainage of the property and likely create new drainage issues.

The existing footprint and including the expansion will not affect the view and aesthetics from the roadway. The new structure would be slightly taller than existing garage but would still be low below the roadway.

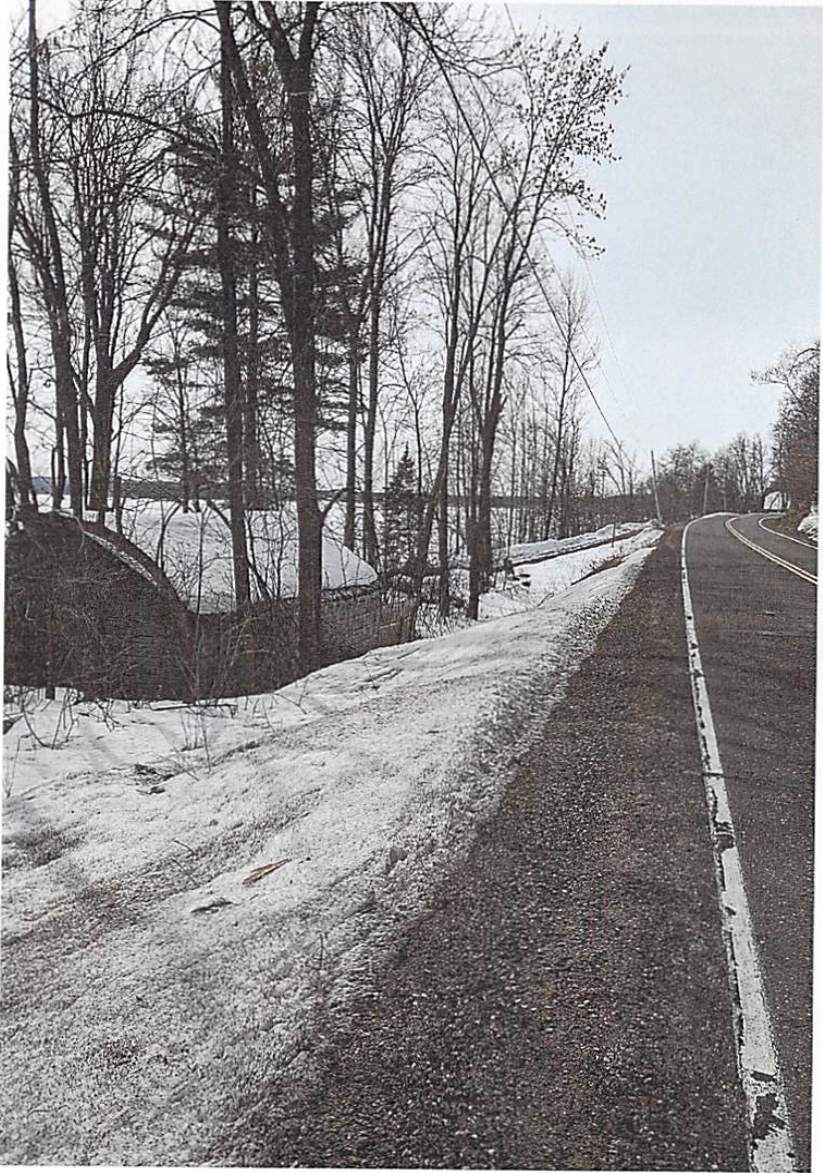
No. A variance cannot be granted.

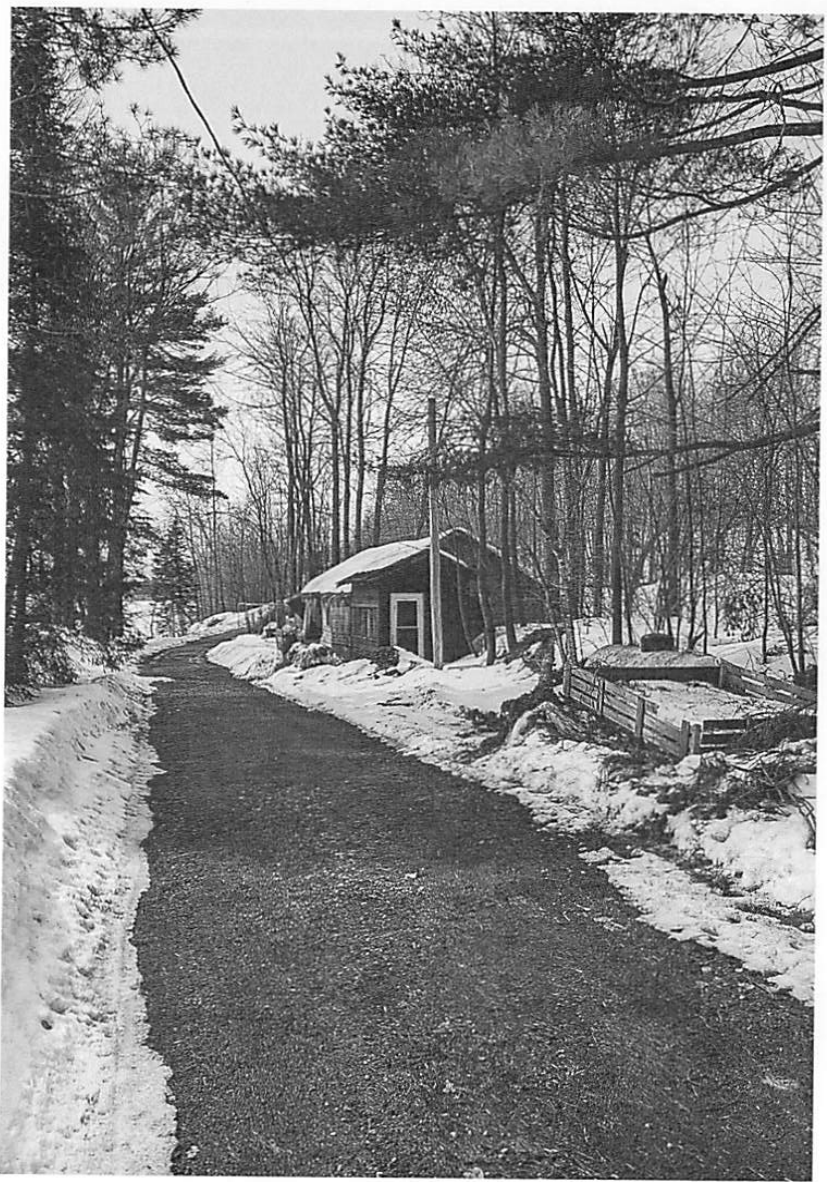
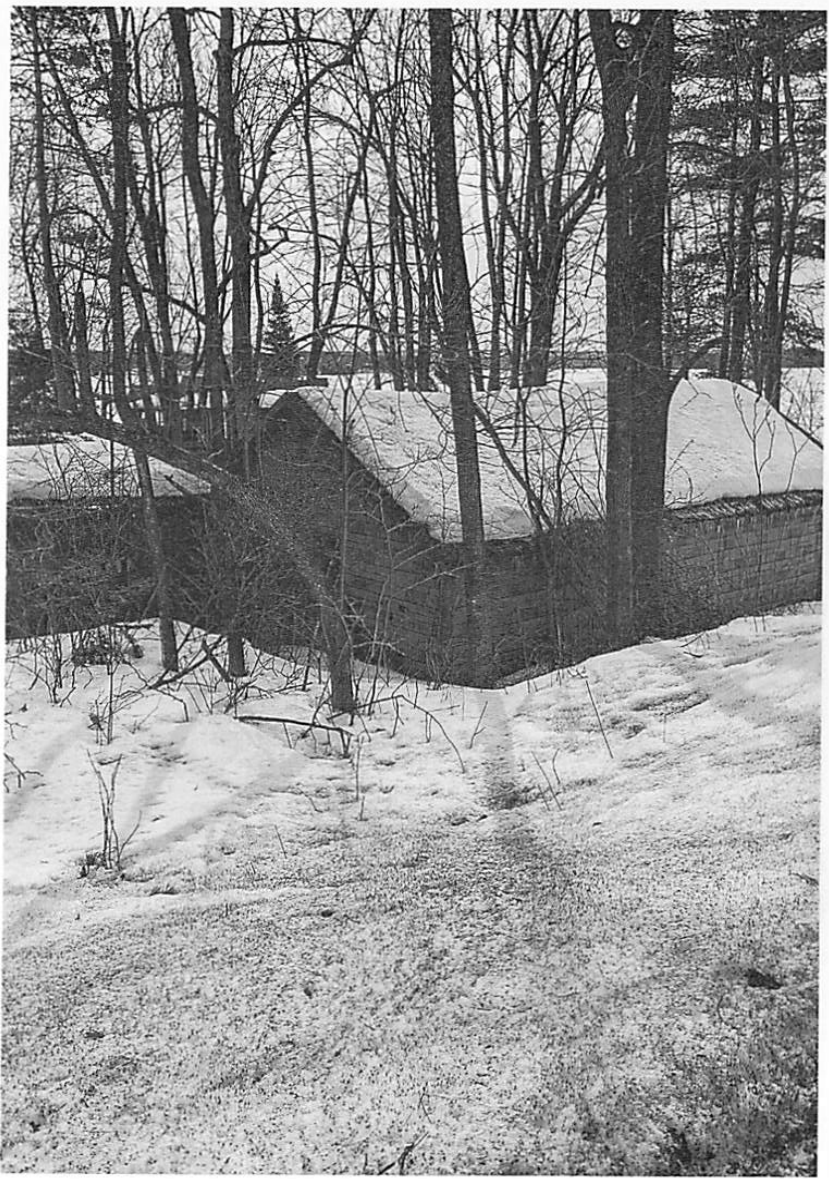


















Sawyer County Zoning & Conservation Department

10610 Main Street, Suite 49

Hayward, WI 54843

jay.kozlowski@sawyercountygov.org

Fax (715) 638-3277

(715) 634-8288

VARIANCE REQUEST STAFF REPORT

Applicant:

Scott Daul & Daniel Daul DBA: The Dock

12502W County Hwy B

Hayward, WI 54843

Property Location:

12502W County Hwy B

Parcel # 010-841-36-5415

Summary of Request:

The applicant and owner of "The Dock, Scott and Daniel (Butch) Daul are requesting to construct a 20' x 60' deck onto an existing bar/restaurant. The existing bar/restaurant is located 7' from the OHWM of Round Lake. The proposed deck expansion area would be located at 9' to the OHWM of Round Lake at the closest point.

Project History:

The existing bar/restaurant currently exists within the RR-1 Zone District. This is an existing non-conforming "grandfathered" use in that a bar/restaurant existed in this location prior to zone district classifications being enacted into ordinance.

The applicant, is applying for relief of Section 6.1, Sawyer County Zoning Shoreland-Wetland Protection Ordinance for a reduced OHWM setback. The required setback for new structures here would be 75' from the OHWM with this particular request asking for a 9' setback variance. This request comes in the form of a larger deck which per the applicant's statements would be used to hold larger outdoor seating and would be handicap accessible for other events it may hold. The deck would then be fenced/screens from view on County Hwy B.

On-site Notes/Comments:

See attached inspection report completed by Jay Kozlowski.

As part of the onsite visit on 04/12/2023 Jay Kozlowski measured setbacks for the proposed deck area.

The proposed deck area would be located over the existing holding tanks for the wastewater of the property. According to DSPS code holding tanks are to be located 5' from a building but there is no clear language distinction to what a "deck" is. The 5' tank setback from a building is needed for sewer gas exchange and general installation practices. As long as the tanks are still accessible for the pumpers

through either a trap door or access hatch the County Sanitarian does not see issues with these setback requirements.

This property also has a large amount impervious surfaces on the lot. The rough calculations of impervious surface coverage would be 77%. Now this amount would be calculated as an existing impervious surface and again would be considered existing non-conforming. The request for the additional deck area would not increase impervious surfaces as the deck would maintain at least 1/8" gaps within the deck boards to allow water to pass through.

As per discussion with the applicant they were interested in doing additional treatment areas for impervious surfaces and blacktop runoff. They would also be interested in backpitching the slope under the deck so that rain water would run back into the parking lot where it could be diverted into a potential treatment area as opposed to eroding away the soil under the deck that would run directly into the lake.

Hardship/Justification:

Variances seek a relaxation of a standard in the code. The decision to grant a variance must be supported by practical justification, which includes 1.) That the code is unnecessarily burdensome and the landowner is not able to enact a permitted use without a relaxation of the standard; 2.) There are unique limitations on the property that prevent the landowner from meeting the required dimensional standard; and 3.) if the variance is granted, no harm will be done to the public interest or the zoning code. It is the applicants' responsibility to present the case and provide the "burden of proof" as to why the variance should be granted. The personal situation of the applicant, financial hardship, convenience, a growing family, or nearby violations cannot be considered as valid reasons to grant a variance.

Board Decision Checklist:

(Approval Reasons): An unnecessary **hardship is present** and the current code requirements would be **unnecessarily burdensome** and **prevent** the applicant from using the property for a permitted use because: **(Board of Appeals to choose specific conditions unique to property. May add or delete to this list):**

1. No other alternatives exist.
2. The impacts of construction are being minimized by mitigation.
3. A minimal relaxation of code is being granted.
4. A permitted use is not possible on this property without a variance approval.
5. The circumstances are beyond the control of the applicant, and are unique to the property not the applicant.
6. The lot predates zoning regulations.
7. The construction matches the lot and available area.

The hardship/unreasonably burdensome limitation of setbacks is due to unique physical features or limitations of the property and not the circumstances of the applicant as follows: **(Board of Appeals to choose specific conditions unique to property. May add or delete to this list):**

1. Very little or no buildable area exists.
2. The buildable area lot is very narrow.

3. The lot depth is very shallow.
4. Steep slopes exist.
5. The setbacks overlap here.
6. There is no other room for a septic system.
7. Overall small lot size.
8. Erosion exists.

The variance will not harm the public interest or neighboring land uses, and damage the intent of the zoning code because: **(Board of Appeals to choose specific conditions unique to property. May add or delete to this list):**

1. Visibility is good at the driveway location.
2. Traffic is light.
3. The septic will be upgraded.
4. Traffic is slowed here.
5. A turnaround is proposed.
6. This would make a bad situation better.
7. Good vegetation exists or is proposed.
8. The proposed use will not harm the public, zoning code, or neighboring land uses if conditions are followed.
9. A literal enforcement of the zoning code would be unnecessarily burdensome.
10. The testimony in opposition has been considered but no valid reasons could be found to deny.

(Approval Conditions): Therefore, the requested variance is hereby **approved** with the following conditions: **(add or delete as needed):**

1. The development must be in substantial compliance with the site plan and testimony provided at the public hearing.
2. The first floor elevation and filling and grading shall be done in accordance with the site plan and additional information provided at the public hearing.
3. The non-conforming _____ must be removed within ____ days from the time the Land Use Permit is submitted.
4. All other required setbacks must be complied with.
5. All permits must be obtained, including land use, building, and sanitary.
6. All code requirements must be complied with.
7. It is the responsibility of the builder and landowner to protect the neighboring lots, lake, and road during construction.
8. Standard or Individual (pick one) erosion control and/or stormwater management plans (again either or both can be picked) must be in place prior to construction starting. This may include treated impervious surfaces.
9. The driveway shall meet all code specifications and shall provide suitable turnaround to prevent backing onto the road.
10. The applicant will allow agents of Sawyer County access to the property to ensure compliance with the terms of this decision, Sawyer County codes, and state and federal Laws.
11. The Board agrees with the concerns of DNR but on-site observations and conditions of approval should mitigate those.
12. Shoreline bufferzone mitigation is required to a specified amount

(Denial Reasons): Unnecessary hardship is not present and the code requirements are not unnecessarily burdensome and will not prevent the owner from using the property for a permitted use because (Board of Appeals to choose specific conditions unique to property) :

1. The land owner has reasonable use already.
2. Cumulative impacts can be foreseen.
3. A self-imposed hardship cannot be grounds for an approval.
4. The Board concurs with the concerns expressed by _____.
5. Other alternatives exist such as building in another location or building a smaller structure.
6. A loss of profit or inconvenience is not a hardship.

The hardship is not due to unique physical features or limitations of the property and appear to be unique to the applicant as follows (Board of Appeals to choose specific conditions unique to property):

1. There are many other similar lots in area.
2. The code requirements are not unnecessarily burdensome and should be adhered to.
3. The hardship is unique to the property owner.
4. This is a self-imposed hardship.
5. No hardship noted.
6. A loss of profit is not a hardship.
7. No unique lot features were noted by the Board.

The variance will harm the public interest or neighboring land uses, and damage the intent of the zoning code because (Board of Appeals to choose specific conditions unique to property):

1. An approval would set a precedent.
2. Public safety could be compromised.
3. This would make a bad situation worse.
4. An increase in water runoff and erosion is anticipated.
5. Harm to water quality is anticipated.
6. The proposal appears to be for convenience to the landowner only.
7. An approval would undermine the code and harm the neighboring properties and public interest at large.
8. The landowner should pursue other locations or building plans.

(Denial Conditions): Therefore, the requested variance is hereby denied with the following conditions (Board of Appeals to choose specific conditions unique to property):

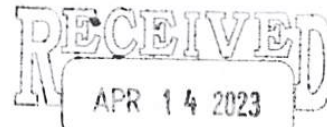
1. The _____ must be removed within _____ days
2. The applicant will allow agents of Sawyer County access to the property to ensure compliance with the terms of this decision, Sawyer County Codes, and State and Federal Laws.

(Tabled): The requested variance is tabled to the () business meeting or () public hearing scheduled for _____, 2020.

1. This will allow the applicant to complete the following:
2. The applicant is instructed to contact the _____ to attempt a resolution.
3. A plat of survey or Certified Survey Map must be made to accurately locate lot lines, buildings, and ROW's.
4. A better site plan with elevations drawings is necessary.
5. An erosion control and stormwater management plan is required, and must be approved by ZAC to address those issues.



Town of Hayward
County of Sawyer



SAWYER COUNTY
ZONING ADMINISTRATION

Variance Application # 23-002

TO: Sawyer County Zoning & Conservation Administration
10610 Main Street, Suite #49
Hayward, Wisconsin 54843

Email: Kathy.marks@sawyercountygov.org
Phone: 715-634-8288

Owner: Scott Daul and Daniel (Butch) Daul, DBA: The Dock

Address: 12502w County Hwy B, Hayward, WI 54843

Phone number: 952-240-0956 E-mail address: danieldaul64@gmail.com

Property Description: Pct Govt lot 4, Sec 36, T 41 N, R 08 W. Parcel # 010-841-36-5415

Acreage: 0.516 Acres Zone District: RR-1

Application is for: The construction of a 20' x 60' deck area to provide flat access area for ADA compliance for a bar/restaurant area called "The Dock". Also to provide an additional table areas for outdoor seating. The proposed deck area would be located as close as 9' to the high water mark of Round Lake.

Variance is requested as: Section 6.1 (1) Sawyer County Shoreland - Wetland protection Ordinance would require the prior granting of a variance for any structures closer than 75' to the high water mark. The proposed 20' x 60' deck would be located 9' at the closest point.

Public Hearing Date: Tuesday, June 20th
Other Information:

Signature of Agent(s)

DANIEL J DAUL

Signature of Owner(s)

The above person(s) hereby make application for a variance. The above certify that the listed information and intentions are true and correct. The above person hereby gives permission for access to the property for onsite inspection.
(January 2021) \$750.00

PART 1 Applicant Supplied Information

Current use of your property & improvements

Iconic family restaurant that dates back to the 1950's, originally built by Bob and Fannie Kutz who also founded the Fresh Water Fishing Hall of Fame in Hayward. Existing building, and business was in disrepair prior to the purchase by Daul Properties in 2021. In 2022 Daul Properties invested over \$500,000 to improve the functionality of this historic property, and bring it back to its glory.

Describe the variance requested

We are requesting a variance for a deck that will be compliant with the American Disabilities Act (ADA). The deck will be 60'x20' and will be the only public deck and dock system on Round Lake and Little Round Lake that is compliant with the ADA standards.

Describe the effects on the property if the variance is not granted

If the variance is not granted the current space would not be usable nor will it be safe for those who have disabilities or those that are challenged navigating an outdoor venue.

Daniel J Daul
D. J. Daul 4/14/23

Describe alternatives to the requested variance such as other locations, designs and construction techniques (Map below)

There are really no other alternatives - we are land locked by Round Lake on the North side, a condo association on the West side, and County Highway B on the South Side.
Due to land lock issues, there are no other alternatives.



Alternatives you considered that require a lesser variance and reasons you rejected them

We are land locked on 3 of the 4 sides – see the map above.

Describe the impact on your property and adjacent properties if the variance is granted

If the variance is granted, we will increase the shoreline buffer zone from the current 2 feet to a minimum of 5 feet in the affected areas. The shoreline will be planted with native vegetation, trees and shrubs to bring it back to its natural state. Furthermore, we will work with an environmental engineering group to have them divert most of the water run off toward an engineered developed natural filter system. In addition, we will be removing approximately 500 square feet of impervious hardscape and making it pervious.

PART 2 Three-Step Test

1) Unique Property Limitations

We are land locked by Round Lake on the North side, a condo association on the West side, and County Highway B on the South Side. The only viable option is the east side of the property.

Do unique physical characteristics of your property prevent compliance with the ordinance?

Yes – the property is land locked.



2) No Harm to Public Interest

There will be no harm to public interest

3) Unnecessary Hardship

Yes, an unnecessary hardship is present.

The main goal of the requested variance is to provide a decking system that follows the ADA guidance. The deck will be the only dock and decking system available to those with a disability on Round Lake and Little Round Lake.

Per a recent survey done by "Point 2 Homes" – those 65 years old and greater represent 41% of the population on Round Lake. If you add in the 55 to 64 years old that percentage increases to 60%.

Real Estate Sawyer County Property Listing

Today's Date: 4/14/2023

Property Status: Current

Created On: 2/6/2007 7:55:21 AM



Description Updated: 7/30/2021

Tax ID: 11895
PIN: 57-010-2-41-08-36-5 05-004-000150
Legacy PIN: 010841365415
Map ID: :4.15
Municipality: (010) TOWN OF HAYWARD
STR: S36 T41N R08W
Description: PRT GOVT LOT 4
Recorded Acres: 0.380
Lottery Claims: 0
First Dollar: Yes
Waterbody: Round Lake
Zoning: (RR1) Residential/Recreational One
ESN: 444



Tax Districts Updated: 2/6/2007

1	State of Wisconsin
57	Sawyer County
010	Town of Hayward
572478	Hayward Community School District
001700	Technical College



Recorded Documents Updated: 4/8/2014

WARRANTY DEED
Date Recorded: 12/17/2021 [436571](#)
WARRANTY DEED
Date Recorded: 11/7/2018 [415314](#)
PERSONAL REPRESENTATIVES DEED
Date Recorded: 6/14/2004 [322337](#)



Ownership Updated: 1/11/2022

SCOTT M DAUL HAYWARD WI
DANIEL J DAUL HAYWARD WI

Billing Address:

SCOTT M DAUL
12502W COUNTY HWY B
HAYWARD WI 54843

Mailing Address:

SCOTT M DAUL
12502W COUNTY HWY B
HAYWARD WI 54843



Site Address * indicates Private Road

12502W COUNTY HWY B HAYWARD 54843



Property Assessment Updated: 11/9/2015

2023 Assessment Detail

Code	Acres	Land	Imp.
G2-COMMERCIAL	0.380	294,500	136,900

2-Year Comparison

	2022	2023	Change
Land:	294,500	294,500	0.0%
Improved:	136,900	136,900	0.0%
Total:	431,400	431,400	0.0%



Property History

N/A

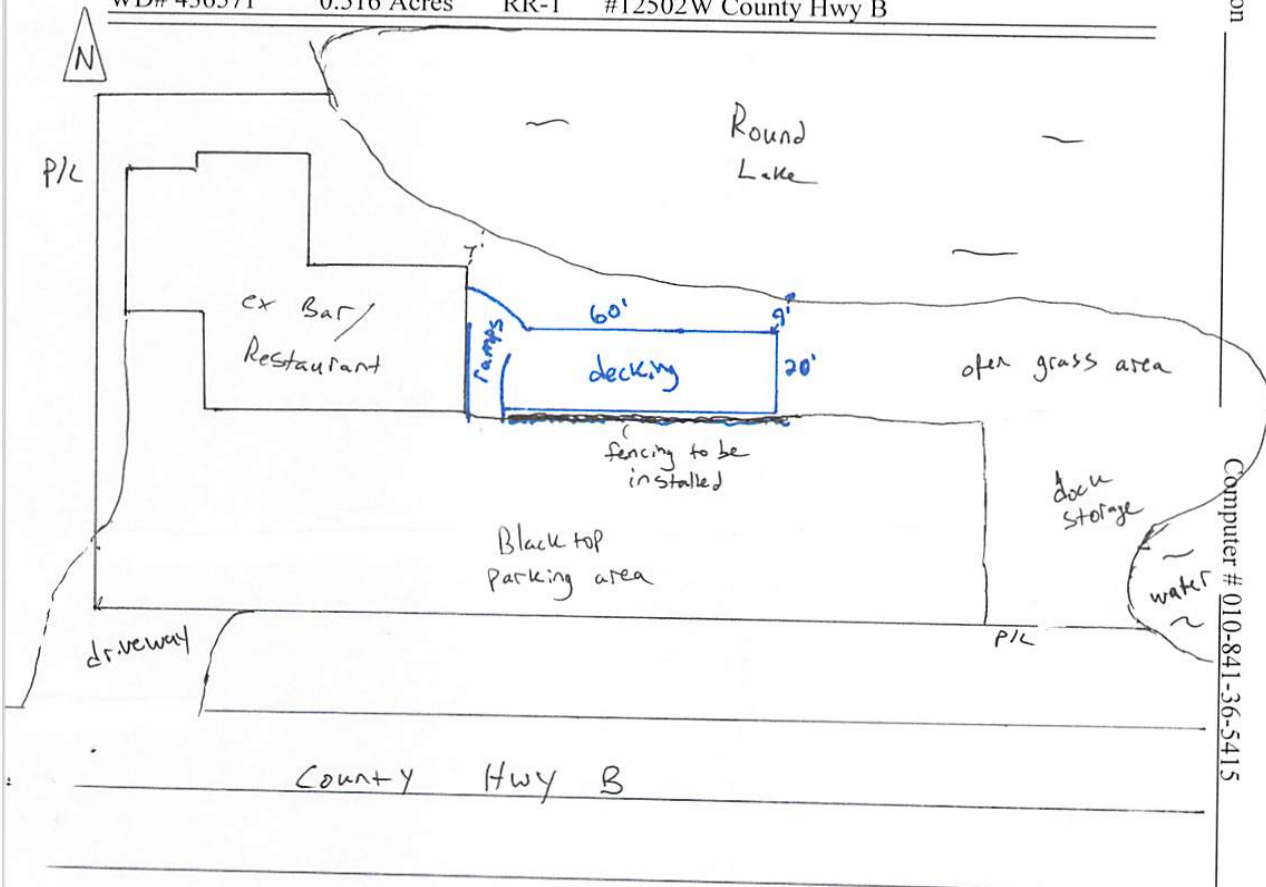
Sawyer County Zoning Administration
Inspection Report

Owner(s) Scott Daul & Daniel (Butch) Daul
Address 12502W County Hwy B Hayward, WI 54843
Agent/Purchaser _____
Address _____
Bldr/Plber/CST _____
Address _____

Inspection ☒ Private ☐ Public Violation ☐ Zoning ☐ Sanitation

☐ Dwelling ☐ Mobile Home ☒ Commercial ☒ Garage ☒ Addition
☒ Setback - Lake ☐ Setback - Road ☐ Setback - Lot Line ☐ Soils Verification
☒ Deck Expansion Area - Variance Required

WD# 436571 0.516 Acres RR-1 #12502W County Hwy B



Variance Required for 20' x 60' decking area including ramps and fencing onto an existing bar/restaurant called "The Dock". Proposed decking to be located 9' at the closest point to Round Lake. Existing building approximately 7' to OHWM.

Discussed with Scott Daul, Butch Daul, and Jay Kozlowski

Date & Time 04/12/23 1:00 PM

Signature of Inspector _____

Jay Kozlowski

Lot(s) _____ Blk(s) _____ Subdivision _____
Owner(s) DAUL, SCOTT & DAUL, DANIEL Town of HAYWARD
Govt Lot PRT 4 1/4 1/4 S 36 T 41 N R 08 W
Computer # 010-841-36-5415
Parcel(s) :4.15







