

# ***JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT***

*Dale Weis, Chair; Don Carroll, Vice-Chair; Janet Sayre Hoeft, Secretary  
Paul Hynek, First Alternate; Lloyd Zastron, Second Alternate*

**PUBLIC HEARING** BEGINS AT **1:00 P.M.** ON THURSDAY, NOVEMBER 12, 2015 IN ROOM 205, JEFFERSON COUNTY COURTHOUSE

**CALL TO ORDER FOR BOARD MEMBERS** IS AT 9:45 A.M. IN COURTHOUSE ROOM 203, PRIOR TO THE HEARING

**SITE INSPECTION FOR BOARD MEMBERS** LEAVES AT 10:00 A.M. FROM COURTHOUSE ROOM 203, PRIOR TO THE HEARING

**1. Call to Order-Room 203 at 9:45 a.m.**

Meeting called to order @ 9:35 a.m. by Weis

**2. Roll Call (Establish a Quorum)**

Members present: Carroll, Hoeft, Weis

Members absent: -----

Staff: Michelle Staff, Laurie Miller

Also present was Blair Ward, Corporation Counsel.

**3. Certification of Compliance with Open Meetings Law Requirements**

Hoeft acknowledged publication. Staff also presented proof of publication.

**4. Approval of the Agenda**

Carroll made motion, seconded by Hoeft motion carried 3-0 on a voice vote to approve the agenda with a correction to the address for the Jilek petition from W8195 to W8175 State Road 106

**5. Approval of October 8, 2015 Meeting Minutes**

Carroll made motion, seconded by Weis, motion carried 3-0 on a voice vote to approve the October 8, 2015 meeting minutes.

**6. Communications and Public Comment - None**

**7. Request for Corporation Counsel to Address the Board Regarding Temporarily Allowing Two Dwellings on a Property While One is Under Construction**

Blair Ward, Corporation Counsel, addressed the Board. He felt that this could be done at the County level without a variance. There was a discussion on the options. Attorney Ward stated that it could be a condition set forth with the approval of a Land Use permit. If they didn't comply, it would be handled through a violation process. There was further discussion. This could be just a change in policy rather than a separate ordinance. He felt that it was already covered under the existing ordinance indicating that the temporary structure could be classified as an accessory use to the principal use.

Weis asked Staff that the Planning and Zoning Committee as well as the towns be kept updated.

**8. Site Inspections – Beginning at 10:00 a.m. and Leaving from Room 203**

V1475-15 – Randy & Lindsay Jilek, W8175 State Road 106, Town of Sumner

V1471-15 – Robert & Ann Osborne, N7061 North Shore Rd, Town of Lake Mills

V1476-15 – Mark & Donna Robidoux Trust, N9684 Peschel Rd, Town of Waterloo

**9. Public Hearing – Beginning at 1:00 p.m. in Room 205**

Meeting called to order @ 1:00 p.m. by Weis

Members present: Carroll, Hoeft, Weis

Members absent: -----

Staff: Michelle Staff, Laurie Miller

**10. Explanation of Process by Board of Adjustment Chair**

The following was read into the record by Hoeft:

***NOTICE OF PUBLIC HEARING  
JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT***

**NOTICE IS HEREBY GIVEN** that the Jefferson County Zoning Board of Adjustment will conduct a public hearing at 1:00 p.m. on Thursday, November 12, 2015 in Room 205 of the Jefferson County Courthouse, Jefferson, Wisconsin.

Matters to be heard are applications for variance from terms of the Jefferson County Zoning Ordinance. No variance may be granted which would have the effect of allowing in any district a use not permitted in that district. No variance may be granted which would have the effect of allowing a use of land or property which would violate state laws or administrative rules. Subject to the above limitations, variances may be granted where strict enforcement of the terms of the ordinance results in an unnecessary hardship and where a variance in the standards will allow the spirit of the ordinance to be observed, substantial justice to be accomplished and the public interest not violated. Based upon the findings of fact, the Board of Adjustment must conclude that: 1) Unnecessary hardship is present in that a literal enforcement of the terms of the ordinance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome; 2) The hardship is due to unique physical limitations of the property rather than circumstances of the applicant; 3) The variance will not be contrary to the public interest as expressed by the purpose and intent of the zoning ordinance. **PETITIONERS, OR THEIR REPRESENTATIVES, SHALL BE PRESENT.** There may be site inspections prior to public hearing which any interested parties may attend; discussion and possible action shall be occur after public hearing on the following:

**V1471-15 – Robert & Ann Osborne:** Variance from Sections 11.04(f)5 and 11.07(d)2 of the Jefferson County Zoning Ordinance to sanction an existing 24'6" X 33' structure at less than the required minimum setbacks to side yard, road right-of-way and road centerline. The property is at **N7061 North Shore Road** in the Town of Lake Mills on PIN 018-0713-0231-003 (0.8 Acre) and is in an A-T, Agricultural Transition zone.

Hoelt made motion, seconded by Weis, motion carried 3-0 on a voice vote to bring this petition off the table.

Robert Osborne presented his petition. The variance is for an existing structure. He stated that he brought in a survey which shows both the carport and retaining wall are on his property. He noted he could modify the structure to meet a 5.36' setback. Mr. Osborne also read into the record his statement regarding the variance.

There were no questions or comments in favor or opposition of the petition.

Staff report was given by Staff. She explained the setbacks based on the survey and what setbacks are required by ordinance. This is in an A-T zone which requires a 20' setback.

Carroll asked the petitioner for the date of construction. Mr. Osborne stated that it was in 1997, and that the residence was constructed in 1993/1994. Staff noted that if

the Board does grant the variance, the petitioner would be required to get a Zoning and Land Use Permit.

There was a town decision in the file approving the petition which was read into the record by Hoeft. Hoeft also re-read a letter from the neighbors, Scott & Mary Daubert, into the record. Staff noted that a variance would not affect the Dauberts in the future for subdividing their lot and cannot predict how this will affect their property with the structure being close to the property line. Weis noted that Scott Daubert presented his concerns at last month's hearing. Because there is now a survey, there is documented proof that there is a separation from his property even though it's not legal. This hearing is for a variance on that setback.

Carroll asked Staff how this would impact the adjacent property having virtually no setback. Staff explained that there would be the usual concerns with the building's maintenance without trespassing and runoff. Carroll commented about the 20' setback, the use of the land, and the A-T zone. Weis made note that the property is very steep.

**V1475-15 – Randy and Lindsay Jilek:** Variance from Sec. 11.04(f)6 and 11.07(d)2 to reduce the minimum road right-of-way and centerline setbacks at **W8175 State Road 106** in the Town of Sumner, on PIN 028-0513-0341-002 (0.620 Acre) in an A-1, Exclusive Agricultural zone.

Lindsay Jilek presented the petition. They will be bringing in a pre-constructed garage and raising it.

There were no questions or comments in favor or opposition of the petition. There was a town response in the file in favor of the petition which was read into the record by Hoeft.

Hoeft asked if the DOT was notified. Staff stated yes.

Staff gave staff report. She noted that they would be replacing the existing garage with a reduced size garage at the same location. Staff gave the proposed setbacks, and noted that they are not meeting the centerline setback. The proposed structure is set back further than the house. She also gave the existing lot dimensions.

Carroll questioned the elevation of the garage floor and how much they will be raising it. The petitioner stated they wanted to raise the elevation by about 2' so water does not run into the garage. Staff stated that they will meet the 20' rear setback.

**V1476-15 – Mark & Donna Robidoux Trust:** Variance from Sec. 11.04(f)8 to sanction an existing structure at less than the minimum required side yard setback in an A-3 zone on PIN 030-0813-0311-002 (1.35 Acres) at **N9684 Peschel Rd**, Town of Waterloo.

Mark Robidoux presented his petition. He stated that in 1990, the previous owner built the garage after getting denied a variance. Mr. Robidoux bought some property to the south and got a survey to do so. The survey shows a 19.2' garage setback.

There were no questions or comments in favor or opposition of the petition. There was a town response in the file approving the petition which was read into the record by Hoeft.

Staff report was given by Staff. She explained the garage was constructed before Mr. Osborne purchased the property. There was a permit issued in 1990 for the addition, but it was supposed to be 20' from the lot line. Based on the survey, they put one corner too close to the lot line. The Zoning Department cannot administratively sign a certified survey map if the property does not meet ordinance requirements.

Carroll commented that should this be approved, there may be a condition that if there is any replacement, it must meet setbacks. Weis commented that they would need a new permit if they were replacing the building. Staff explained that the variance goes with the property, so they could replace the building at the same size and location if there is a variance approval unless there was a condition. The petitioner noted that he had a survey done when he bought the property and this was not discovered at that time.

## **11. Discussion and Possible Action on Above Petitions (See following pages and files)**

## **12. Adjourn**

Weis made motion, seconded by Hoeft, motion carried 3-0 on a voice vote to adjourn @ 2:05 p.m.

**If you have questions regarding these variances, please contact the Zoning Department at 920-674-7113 or 920-674-8638. Variance files referenced on this hearing notice may be viewed in Courthouse Room 201 between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, excluding holidays. Materials covering other agenda items can be found at [www.jeffersoncountywi.gov](http://www.jeffersoncountywi.gov).**

## **JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT**

*A quorum of any Jefferson County Committee, Board, Commission or other body, including the Jefferson County Board of Supervisors, may be present at this meeting.*

Individuals requiring special accommodations for attendance at the meeting should contact the County Administrator at 920-674-7101 at least 24 hours prior to the meeting so appropriate arrangements can be made.

*A digital recording of the meeting will be available in the Zoning Department upon request.*

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Secretary

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Date

DECISION OF THE ZONING BOARD OF ADJUSTMENT  
JEFFERSON COUNTY, WISCONSIN

FINDINGS OF FACT

PETITION NO.: 2015 V1471  
HEARING DATE: 11-12-2015

APPLICANT: Robert H & Ann T Osborne

PROPERTY OWNER: SAME

PARCEL (PIN #): 018-0713-0231-003

TOWNSHIP: Lake Mills

INTENT OF PETITIONER: Variance to sanction an existing 24'6" x 33' structure at less than the required minimum setbacks to the side yard, road right-of-way and road centerline. The property is zoned A-T Agricultural Transition Zone

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f)(5) & 11.07(d)(2) OF THE JEFFERSON COUNTY ZONING ORDINANCE.

THE FEATURES OF THE PROPOSED CONSTRUCTION AND PROPERTY WHICH RELATE TO THE GRANT OR DENIAL OF THE VARIANCE APPLICATION ARE:

Our office received a complaint that a structure was built on the Osborne's property without Zoning/Land Use Permits. Notice was sent to the landowners. The landowners submitted a site plan showing the location of the structure did not meet side setbacks and road setbacks. The landowners applied for a variance from the Board of Adjustment. The property is .80 acres on the corner of North Shore Road. The total square footage of the structure is 812 sq. ft. with approximately half being a car port and the other half being a garage. The structure is 8 inches from the lot line whereas the required setback is 20 feet and 74 feet from the centerline and 46 feet from the right-of-way whereas the required setback is 85 feet from the centerline and 50 feet from the right-of-way.

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Site inspections conducted. Observed property layout & location.

FACTS PRESENTED AT PUBLIC HEARING: See tape, minutes & file.

**DECISION STANDARDS**

- A. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING IN ANY DISTRICT A USE NOT PERMITTED IN THAT DISTRICT \_\_\_\_\_  
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- B. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING A USE OF LAND OR PROPERTY WHICH WOULD VIOLATE STATE LAWS OR ADMINISTRATIVE RULES: \_\_\_\_\_  
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- C. SUBJECT TO THE ABOVE LIMITATIONS, VARIANCES MAY BE GRANTED WHERE STRICT ENFORCEMENT OF THE TERMS OF THE ORDINANCE RESULTS IN AN UNNECESSARY HARDSHIP & WHERE A VARIANCE IN THE STANDARDS WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, & THE PUBLIC INTEREST NOT VIOLATED.

BASED ON THE FINDINGS OF FACT, THE BOARD CONCLUDES THAT:

- 1. UNNECESSARY HARDSHIP **IS** PRESENT IN THAT A LITERAL ENFORCEMENT OF THE TERMS OF THE ZONING ORDINANCE **WOULD** UNREASONABLY PREVENT THE OWNER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE OR WOULD RENDER CONFORMITY WITH SUCH RESTRICTIONS UNNECESSARILY BURDENSOME BECAUSE the topography/elevations are extreme. The land is the issue. They are entitled to a garage structure, and it is existing.
  
- 2. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE of the slope of the property, this is the only location. There is an extreme slope to the property. There is no other place to put it.
  
- 3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE there is no change to an allowed structure, therefore, there is no impact. The impact to the neighbor is lessened by the reduced setback.

**\*A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET\***

**DECISION:** THE REQUESTED VARIANCE IS **GRANTED:**

**MOTION:** Weis                      **SECOND:** Carroll                      **VOTE:** 3-0 (voice vote)

**CONDITIONS OF APPROVAL:** The carport roofline to be moved to the setback of 5.36' as provided by the survey done by KW Surveying dated 11/4/2015. All permits to be obtained from Zoning.

SIGNED: \_\_\_\_\_ DATE: 11-12-2015  
CHAIRPERSON

BOARD DECISIONS MAY BE APPEALED TO CIRCUIT COURT. AUDIO RECORD OF THESE PROCEEDINGS IS AVAILABLE UPON REQUEST.



DECISION OF THE ZONING BOARD OF ADJUSTMENT  
JEFFERSON COUNTY, WISCONSIN

FINDINGS OF FACT

PETITION NO.: 2015 V1475  
HEARING DATE: 11-12-2015

APPLICANT: Randy & Lindsay Jilek

PROPERTY OWNER: Randy Jilek

PARCEL (PIN #): 028-0513-0341-002

TOWNSHIP: Sumner

INTENT OF PETITIONER: To remove an existing garage and replace with a 22' x 22' detached garage.  
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THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f) OF THE JEFFERSON COUNTY ZONING ORDINANCE.

THE FEATURES OF THE PROPOSED CONSTRUCTION AND PROPERTY WHICH RELATE TO THE GRANT OR DENIAL OF THE VARIANCE APPLICATION ARE:  
The petitioner would like to replace an existing garage with an new 22 foot by 22 foot detached garage. The proposed garage would be 83 feet from the R.O.W and 108 feet from the centerline of State Road 106 whereas the required setbacks are 70 feet from the R.O.W and 140 feet from the centerline. The petitioner indicated on their sited plan that the structure will meet the rear lot line setback of 20 feet. The lot is 165 feet by 165 feet and .62 acres.  
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FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Site inspections conducted. Observed property layout & location.  
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FACTS PRESENTED AT PUBLIC HEARING: See tape, minutes & file.  
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DECISION OF THE ZONING BOARD OF ADJUSTMENT  
JEFFERSON COUNTY, WISCONSIN

FINDINGS OF FACT

PETITION NO.: 2015 V1476  
HEARING DATE: 11-12-2015

APPLICANT: Mark & Donna Robidoux

PROPERTY OWNER: SAME

PARCEL (PIN #): 030-0813-0311-002

TOWNSHIP: Waterloo

INTENT OF PETITIONER: To sanction an existing structure at less than the minimum required side yard setback in an A-3 zone

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f)8  
OF THE JEFFERSON COUNTY ZONING ORDINANCE.

THE FEATURES OF THE PROPOSED CONSTRUCTION AND PROPERTY WHICH RELATE TO THE GRANT OR DENIAL OF THE VARIANCE APPLICATION ARE:

The petitioner is asking to sanction an existing 54' x 26' detached structure that is 19.2 feet from the lot line whereas the required setback is 20 feet. On March 4, 1990, the previous owner was denied a variance for a new detached structure proposed at 15 feet to the lot line. On March 15, 1990, the petitioner at the time revised the plot plan and received a Zoning/Land Use Permit for an addition to an existing detached structure that was to be 20 feet from the lot line. When reviewing a proposed Certified Survey Map for the current owner it was found that the structure is 19.2 feet from the lot line.

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Site inspections conducted. Observed property layout & location.

FACTS PRESENTED AT PUBLIC HEARING: See tape, minutes & file.

