

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 DECEMBER 10, 2015 IN ROOM 205, JEFFERSON COUNTY COURTHOUSE

CALL TO ORDER FOR BOARD MEMBERS IS AT 10:45 A.M. IN COURTHOUSE ROOM 203, PRIOR TO THE HEARING

SITE INSPECTION FOR BOARD MEMBERS LEAVES AT 11:00 A.M. FROM COURTHOUSE ROOM 203, PRIOR TO THE HEARING

1. Call to Order-Room 203 at 10:45 a.m.

Meeting called to order @ 10:45 a.m. by Weis

2. Roll Call (Establish a Quorum)

Members present: Weis, Hoeft, Hynek

Members absent: Carroll

Staff: Michelle Staff, Laurie Miller

3. Certification of Compliance with Open Meetings Law Requirements

Hoeft acknowledged publication. Staff also presented proof of publication.

4. Approval of the Agenda

Hoeft made motion, seconded by Hynek, motion carried 3-0 by voice vote to approve the agenda.

5. Approval of November 12, 2015 Meeting Minutes

Hoeft made motion, seconded by Weis, motion carried 2-0 by voice vote to approve the meeting minutes.

Hynek abstained from vote – was not present at the November 12, 2015 meeting.

6. **Communications and Public Comment** – Staff informed the Board that there was a training scheduled for the Planning & Zoning Committee in the City of Whitewater at the end of January. The Board is welcome to attend if they are interested in attending. The information will be sent to the Board with their packets.

7. **Site Inspections – Beginning at 11:00 a.m. and Leaving from Room 203**
V1477-15 – Ross & Judy Davis, **N3085 County Road K**, Town of Jefferson
V1479-15 – Ben & Kristen Lindsey, **W5708 Fox Hill Road**, Town of Koshkonong
V1478-15 – Daniel P Bach/Melvin D & Susan R Jenkins Property, **W7279 Blackhawk Island Rd**, Town of Koshkonong

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

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

Members present: Weis, Hoeft, Hynek

Members absent: Carroll

Staff: Michelle Staff, Laurie Miller

Also present was Blair Ward, Corporation Counsel.

9. **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, December 10, 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:

V1477-15 – Ross & Judy Davis: Variance from Sec. 11.09 Non-Conforming Uses, Structures and Lots of the Jefferson County Zoning Ordinance to allow alteration in excess of 50% of the structural members and allow expansion of the footprint by more than 50% of the residence at **N3085 County Road K**. The structure is on PIN 014-0614-2741-003 (1.04 Acre) in the Town of Jefferson and is zoned Residential R-2.

Ross Davis presented his petition. He stated that he wants to add an upstairs laundry, a second bathroom and an attached three-garage. He meets all the setbacks except to the North lot line, but there is no expansion to the North. He bought the house next door and tore it down so he could do the expansion.

Weis asked Mr. Davis about the existing garage. Mr. Davis stated that it will be torn down.

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 gave staff report. She noted that the structure is non-conforming due to the setback on the North side being 4' from the eaves and 6' to the foundation. The required setback is 10'. She further explained the petitioner's request noting there is a one-car attached garage right now. She asked the petitioner if the new addition was going to be where the existing attached garage is. Mr. Davis explained the addition and that they will be entering the property off of Stokke Lane. Staff noted that he also owns the lot behind this. All the detached structures are on a different lot. Zoning is considering this as one lot. He will be meeting all the current setbacks with the addition. It is the setback at the current location that does not meet the setback.

Hynek asked the petitioner for the current square footage of the home. Mr. Davis stated that he did not have that information. Hynek asked how they would know if this percentage is what it is. Staff explained the 50% expansion requirements. Hynek asked Staff that if he tore down the existing garage would he have the ability to build a detached garage. Staff stated that no, he does not and explained that this zone allows

for only two accessory structures. He already has two accessory structures on the property. A third structure would require a variance. There was further discussion on the ordinance requirements. Hynek commented on the square footage and noted that he wanted to look at what other options the petitioner has. Staff noted that they have the option to be at less than 50%. Hynek viewed the sketch with Mr. Davis and wanted to know exactly how much existing square footage there is.

Weis asked Staff that if the house was not encroaching on the North lot line, could the petitioner be able to build the addition. Staff stated yes. Weis noted that house has been encroaching this lot line since it was built, and asked Staff for the current setbacks. Staff stated that if this was approved, they would be approving it through a variance.

Hoelt stated that if he owns the land behind the house, why not build a garage there. Mr. Ross explained that they wanted an attached garage. They would be changing the driveway entrance off of Stokke Lane instead of County Road K due to the dangers of backing out onto the highway.

V1478-15 - Daniel P Back/Melvin D & Susan R Jenkins Property: Variances from Sec. 11.04(f)10 of the Jefferson County Zoning Ordinance to allow a structure within the floodway, from 11.04(d) to allow three structures within the Waterfront zone and from 11.10(d) to allow a structure at less than 75 feet from the Ordinary High Water Mark of the Rock River. Also variances from Sec. 14.3.0 and 14.6.2 of the Jefferson County Floodplain Ordinance to allow structures within the floodway that do not meet floodway standards. These variances are requested to sanction placement of a 192 square foot shed and deck within the Waterfront zone and the floodway of the Rock River in the Town of Koshkonong, on PIN 016-0514-1823-017 (0.21 Acre), at **W7279 Blackhawk Island Road.**

Attorney Daniel Bach from Lawton & Cates presented the petition. He noted the property is located on Blackhawk Island Road. The Jenkins bought the property in 1974. At the time there was an existing shed on the property which was destroyed in 2011 by a wind storm. He commented that there was still a question as to if this is a structure as defined by ordinance. He further explained that the son had raised the shed which was initially fixed to the ground and is now not affixed to the ground. Attorney Bach had pictures of the property and went on to explain the pictures. The pictures were submitted to the Board.

Attorney Bach again stated there is a question whether this is a structure. This is a larger shed than the one that was replaced. He noted that state law stated that a non-conforming structure is allowed to be reconstructed with a structure if it is similar in size if destroyed or damaged by a flood. It was their position that they be allowed the current shed to be left on the trailer. It does not have any electrical hook-up and it could be towed away. It is in their view this does not violate the intent of the

ordinance. He commented on just receiving a letter from the DNR and its contents. He stated that a shed on a trailer can be moved which is no different than any mobile homes or other trailers that are located along the island. Attorney Bach presented additional pictures to the Board of other properties, other sheds and mobile homes that don't move any more or less often which some of them have been there for years. As far as public interest, there is no safety or health issue, and is mobile. There is no greater threat to be carried away by flooding than any other structures that are affixed to the ground or any other mobile structures in the area or neighborhood on the island. It doesn't seem to violate the intent of the ordinance. Attorney Bach also addressed the issue of the additional building and referred the neighboring property. They have done what they could do to make it in compliance. This is where the prior shed was located. The Jenkins did try to get a permit for it, but it was denied.

There were no questions or comments in favor of the petition. Ruthie Klement, W7285 Blackhawk Island Road, was opposed due to the location of the shed and their view. John Klement, W7285 Blackhawk Island Road, was also opposed commenting that the trailer is not movable, it's illegal, they initially built it permanently, and it obstructs his view of the river. Martin Musgrove, W7250 Blackhawk Island Road, noted that there is a foundation across the street where they cannot rebuild.

Hoeft noted that they can take the town's response into consideration, but are not obligate to their decision. She read the town's response in the record denying the petition. Hoeft also read a letter from the DNR into the record urging the Board to deny this request. The letter further explained their reasons.

Staff report was given by Staff. She noted that a copy of the violation file was put into the variance file for the Board's review. It was never stated from our department that that the Jenkins could place the structure on a trailer, or that it would be permitted. All of our correspondence is about removal of the shed. The 2008 flood pictures of the shed are also in the file which shows how high the water was at that time. Staff noted that when she talked to Mrs. Jenkins, Mrs. Jenkins stated that the 2008 flood took the shed off the foundation which started the violation. When something is destroyed by a flooding event, there is no rebuilding of that structure. Staff explained floodplain, floodway, and flood fringe and noted that Blackhawk Island Road is part of the floodway which has a lot of restrictions and does not allow for any new structures. Staff noted that when talking with Mrs. Jenkins, she stated that structure was destroyed by a wind storm in 2011. Staff stated she talked with the assessor, and in 2010, this structure was not on the property but was listed on the assessment after, but it was not listed in 2010. She explained the state requirements for shoreland properties versus floodplain properties.

Staff stated that in the Waterfront District, only two accessory structures are allowed. There are already two detached structures, and this would be the third. Staff noted that not all properties on Blackhawk Island Road are in compliance. The Town of Koshkonong forwarded a list of addresses that they would like our department to

check into to see if they are compliant, and she will be following up on that list to determine if they are compliant/non-compliant. They will be receiving letters if non-compliant. The sections of the ordinances that have been cited were also placed in the file for the Board's review.

Staff explained the difference between structures and uses, and noted that this use is also prohibited in the floodway. It's not just the structures but also the uses.

Chris Gorski, W7265 Blackhawk Island Road, commented about all the structures that are mobile on Blackhawk Island Road. Staff explained that RV's are permitted with limitations that it has to be less than 400 square feet, cannot be parked any longer than two weeks consecutively, and cannot be on the property any longer than 30 days in a given year.

Weis commented that if the Town of Koshkonong has notified the Zoning Department, ultimately due to complaints, the department will investigate. Staff, just as a follow-up to floodplain regulations, noted that we are mandated by the State of Wisconsin and by FEMA to adopt a model ordinance and enforce that ordinance if we want to be a part of the Flood Insurance Program.

Attorney Bach commented on the letter from the DNR and that he didn't have a chance to look at the letter before today, and also questioned if this was a new structure or if it's a structure at all. He explained his interpretation of the Wisconsin Statutes and state law the reasons he felt they met those standards. He also noted that most properties are in violation and went on to explain. Mark Musgrove commented that the building is larger, and that if this could be rebuilt, then the house across the road should be able to be rebuilt. John Klement stated that this does obstruct their view and commented it being on the trailer. They could not move the structure on the trailer on the road.

Weis recapped all the information presented to this point. Weis stated that it sounded like this was built without a permit. Attorney Bach stated that the permit was denied when they came in for an after-the-fact permit. Weis noted that when the permit was denied, an attempt was made to jack it up and put it on a trailer and thus claim this changes the definition of a structure. Attorney Bach explained. Weis asked Attorney Bach if they were aware this was illegal. Attorney Bach explained. They just want to be able to get the variance so the shed can sit on the trailer. There was discussion about what was a structure.

Staff explained that there is a dispute on the state statutes and floodplain requirements. There was further discussion on state statutes and floodplain regulations regarding structures destroyed by flood damage and in the floodway. Hoeft commented that no one was questioning if this was in the floodway. Attorney Bach stated it was in the floodway. Hoeft commented on the Waterfront zoning, principal and accessory uses,

and did not find that a deck or shed in those sections would be allowed. Hynek questioned the location of the structure from the pictures presented. Attorney Bach approached the table and explained. Hynek questioned the use of the shed. Attorney Bach stated it could be used for a variety of recreational uses such as the platform to look over the water and for storage. It is not set up for overnight stays and does not have any running water or septic. Hynek asked what was being stored in the shed. Attorney Bach stated they could store whatever they want. Hynek asked if they could store gasoline in the shed. Attorney Bach responded. Hynek asked if the trailer was registered. Attorney Bach stated that he did not know. Hynek asked if they owned the trailer. Attorney Bach stated that they do as far as he knew. It's been sitting on the trailer for over a year. Hynek asked Staff what county's position on trailers, not RV's, being parked in the floodway. Staff explained. Hynek asked if it was required to have the trailer licensed or titled. Staff explained. Hynek stated that the petitioner is saying that this was mobile, but when out they were out on site, there was a deck with posts affixed to the ground. There was a discussion on the deck attached to the shed. Hynek asked if there was a time limit to rebuild. Attorney Bach stated that there was no time limit built into law and made further comment. Staff commented that for non-conforming uses, if the use ceases for 12 months, the use can no longer continue.

John Klement noted the petitioner states one time it's a structure, and other times it's not. This was originally a 6'x6' shed, so this cannot be considered a replacement shed, and it's not in the same spot. Hynek asked John Klement to explain using the pictures. Martin Musgrove added that they rebuilt it then tried to get the permit. Weis noted that they were supposed to overlook that fact when making their decision. Chris Gorski commented that if this is not a structure, compromise and have them move it. John Klement stated there was an offer by the county's attorney for them to move it. Staff stated that was not true. Hynek commented that it was not the Board's job to compromise and further explained.

Staff stated that the county considers it a structure and meets the definition of a structure for both the floodplain and the zoning. There is a big difference between flood damage versus non-flood damage. Hoeft noted they are allowed two structures and asked about the second accessory structure. Attorney Bach approached the table and explained to the Board.

V1479-15 – Ben & Kristen Lindsey: Variance from Sec. 11.04(f)6 and 11.07(d)2 of the Jefferson County Zoning Ordinance for a proposed addition at less than the required road setback. The site is at **W5708 Fox Hill Road** in the Town of Koshkonong on PIN 016-0514-1011-001 (1 Acre) and is zoned A-1, Exclusive Agricultural.

Ben Lindsey presented his petition. He stated they want to add 280 square feet to the south end of the residence. He was not sure when the house was built, but the septic

was installed in 1969. He explained the purpose of the addition, the physical limitations to the property and noted that it was built before the current ordinance was enacted. Mr. Lindsey also pointed out the septic and garage locations and noted that it is a dead end road with a 25 MPH speed limit used only by them and the neighbors. The town does not even plow this area of the road.

There were no questions or comments in favor or opposition of the petition. Staff report was given by Staff. She stated they are asking for a 280 square foot addition to the residence. The current residence does not meet the road setback requirements though they are going closer to the road than what was previously there. The deck was put on somewhere between 2005 and 2010. The house was constructed sometime after 1960. The lot was created in 1960, and there was no house on the lot at that time. They did get a permit for the septic, but no permit was found for the house. She noted the location of the septic and garage, and that this is a dead end road.

There was a town response in the file approving the petition which was read into the record by Hoeft.

Weis asked the petitioner if he built the deck. Mr. Lindsey stated that the previous owner built the deck. Hynek questioned the petitioner on the well location and the distance to the lot line. Mr. Lindsey stated he did not measure that and further explained. Hynek asked Staff for the zoning of the property. Staff stated it was zoned A-1. The lot was created before the existing ordinance, and although it is not 35 acres, it is still a conforming lot. Hynek commented that the road does not go down the centerline of the ROW and asked Staff for the required setbacks. Staff explained that there is an 85' centerline and 50' ROW setback requirement and the petitioner is asking for a 25' setback from the ROW and 50' from the centerline with the addition. Hynek noted that the road is towards the property in the ROW, and asked the petitioner if he was sure of the setbacks. The Mr. Lindsey stated that he had measured it. Weis noted that they only way to be certain was if a survey was done. Hoeft commented on the vision coming out onto the road. Staff commented on the measurements to the road and ROW which is the property line and asked Mr. Lindsey if he knew where the property line was. Mr. Lindsey stated that he knows where the markers are, ran a string from one end to the other, and measured.

There was a brief break taken before decisions @ 2:23 p.m. Back in session @2:26 pm.

10. Discussion and Possible Action on Above Petitions (See following pages & files)

11. Adjourn

Hynek made motion, seconded by Weis, motion carried 3-0 by voice vote to adjourn @ 3:13 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.

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.

Secretary Date

**DECISION OF THE ZONING BOARD OF ADJUSTMENT
JEFFERSON COUNTY, WISCONSIN**

FINDINGS OF FACT

PETITION NO.: 2015 V1477

HEARING DATE: 12-10-2015

APPLICANT: Ross T Davis

PROPERTY OWNER: Ross T & Judy Davis

PARCEL (PIN #): 014-0614-2741-003

TOWNSHIP: Jefferson

INTENT OF PETITIONER: To allow alteration in excess of 50% of the structural members and allow expansion of the footprint by more than 50% of the residence at N3085 County Road K

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.09 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 add a 533 sq. ft. laundry room and bathroom and a 1,290 sq. ft. attached garage to an existing residence. The property had two residences, but one was removed to accommodate the new additions. The existing structure is 4 feet from the northern lot line whereas the required setback is 15 feet. The proposed additions will expand the footprint of the existing structure over 50%. The petitioner owns additional lands behind the residence which include two other detached structures. The proposed additions will be located away from the northern lot line and meet road setback requirements.

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 _____
- 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: _____
- 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/IS NOT** PRESENT IN THAT A LITERAL ENFORCEMENT OF THE TERMS OF THE ZONING ORDINANCE **WOULD/WOULD NOT** UNREASONABLY PREVENT THE OWNER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE OR WOULD RENDER CONFORMITY WITH SUCH RESTRICTIONS UNNECESSARILY BURDENSOME BECAUSE _____

2. THE HARDSHIP **IS/IS NOT** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE _____

3. THE VARIANCE **WILL/WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE _____

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS **GRANTED/DENIED.**

MOTION: _____ **SECOND:** _____ **VOTE:** _____

CONDITIONS OF APPROVAL/DENIAL: _____

SIGNED: _____ **DATE:** 12-10-2015
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 V1478
HEARING DATE: 12-10-2015

APPLICANT: Daniel P Bach

PROPERTY OWNER: Melvin D & Susan R Jenkins

PARCEL (PIN #): 016-0514-1823-017

TOWNSHIP: Koshkonong

INTENT OF PETITIONER: Request to sanction placement of a 192 sq. foot shed and deck, and three structures within the waterfront zone and floodway of the Rock River

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f)10, 11.04(d), 11.10(d), 14.3.0 & 14.6.2 OF THE JEFFERSON COUNTY ZONING ORDINANCE AND JEFFERSON COUNTY FLOODPLAIN ORDINANCE.

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

Please see file for property information including photos, ordinances, correspondences, etc.

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 _____

- 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: _____

- 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:

- 4. UNNECESSARY HARDSHIP **IS/IS NOT** PRESENT IN THAT A LITERAL ENFORCEMENT OF THE TERMS OF THE ZONING ORDINANCE **WOULD/WOULD NOT** UNREASONABLY PREVENT THE OWNER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE OR WOULD RENDER CONFORMITY WITH SUCH RESTRICTIONS UNNECESSARILY BURDENSOME BECAUSE _____

- 5. THE HARDSHIP **IS/IS NOT** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE _____

- 6. THE VARIANCE **WILL/WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE _____

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS **GRANTED/DENIED.**

MOTION:

SECOND:

VOTE:

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ **DATE:** 12-10-2015
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 V1479
HEARING DATE: 12-10-2015

APPLICANT: Ben Lindsey

PROPERTY OWNER: Ben & Kristen C Lindsey

PARCEL (PIN #): 016-0514-1011-001

TOWNSHIP: Koshkonong

INTENT OF PETITIONER: To construct an addition to an existing residence at less than the required road setback.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f)6 & 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:

The petitioner is proposing a 280 sq. ft. addition onto an existing residence that currently does not meet setback requirements. This addition will be located 25 feet from the right-of-way and 58 feet from the centerline, whereas the required setback is 50 feet from the right-of-way and 85 feet from the centerline. The lot was created in 1960 so it is assumed that the structure was built sometime after its creation. There is no permit on file for the existing deck which appears to be placed on the property between the 2005 air photos and 2010 air photos.

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 _____
- 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: _____
- 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:

7. UNNECESSARY HARDSHIP **IS/IS NOT** PRESENT IN THAT A LITERAL ENFORCEMENT OF THE TERMS OF THE ZONING ORDINANCE **WOULD/WOULD NOT** UNREASONABLY PREVENT THE OWNER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE OR WOULD RENDER CONFORMITY WITH SUCH RESTRICTIONS UNNECESSARILY BURDENSOME BECAUSE _____

8. THE HARDSHIP **IS/IS NOT** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE _____

9. THE VARIANCE **WILL/WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE _____

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS **GRANTED/DENIED**.

MOTION:

SECOND:

VOTE:

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ DATE: 12-10-2015
CHAIRPERSON

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