

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

Dale Weis, Chair; Janet Sayre Hoeft, Vice-Chair; Aari Roberts, Secretary

PUBLIC HEARING BEGINS AT **1:00 P.M.** ON THURSDAY, MARCH 12, 2020 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 at 10:45 a.m. by Chairman Weis
2. **Roll Call (Establish a Quorum)**
Members present: Jaeckel, Weis, Roberts

Members absent: Hoeft

Staff: Laurie Miller, Lindsey Schreiner, Sarah Elsner, and Matt Zangl
3. **Certification of Compliance with Open Meetings Law**
Staff provided proof of publication.
4. **Approval of the Agenda**
Roberts made motion, seconded by Jaeckel, motion carried 3-0 on a voice vote to approve the agenda.
5. **Approval of November 20, 2019 Meeting Minutes**
Roberts made motion, seconded by Weis, motion carried 3-0 on a voice vote to postpone action on the meeting minutes – Weis & Jaeckel were not present at the November public hearing.
6. **Communications - None**
7. **Public Comment - None**
8. **Site Inspections – Beginning at 11:00 a.m. and Leaving from Room 203**
V1659-20 – William J Krupinski, N3989 County Rd N, Town of Jefferson
V1658-20 – Keith and Mary-Lyn Austin, W4580 Roach Ln, Town of Hebron
V1660-20 – James Work, W7671 Lamp Road, Town of Sumner
9. **Public Hearing – Beginning at 1:00 p.m. in Room 205**
Meeting called to order at 1:00 p.m. by Chairman Weis

Members present: Jaeckel, Weis, Roberts

Members absent: Hoeft

Staff: Laurie Miller, Lindsey Schreiner, Sarah Elsner, and Matt Zangl

10. Explanation of Process by Board of Adjustment Chair

The following was read into the record by Chairman Weis:

***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, March 12, 2020 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. An AREA VARIANCE is a modification to a dimensional, physical, locational requirement such as the setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of adjustment. A USE VARIANCE is an authorization by the board of adjustment to allow the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance. 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, a petitioner for an AREA VARIANCE bears the burden of proving “unnecessary hardship,” by demonstrating that 1) strict compliance with the zoning ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose, or 2) would render conformity with the zoning ordinance unnecessarily burdensome. A petitioner for a USE VARIANCE bears the burden of proving that 3) strict compliance with the zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance. Variances may be granted to allow the spirit of the ordinance to be observed, substantial justice to be accomplished and the public interest not violated. **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 may occur after public hearing on the following:

V1658-20 – Keith and Mary-Lyn Austin: Variance from Sec. 11.07(d)2 of the Jefferson County Zoning Ordinance to allow a garage at less than the required setbacks to Roach Ln, Town of Hebron. The property is PIN 010-0615-3114-009 (0.75 Ac), in a Residential R-2 zone, at **W4580 Roach Ln.**

Keith Austin (W4580 Roach Lane, Jefferson, WI 53549) explained his petition. He said they have been parking outside and he needed the garage to be able to park inside. The addition will be too close to the centerline of Roach Lane. They maintain Roach Lane by plowing and graveling. The garage addition would be 7 feet too close.

Staff report was given by Zangl and submitted in the file. He stated the property is zoned R-2 and is a 0.75 acre parcel. There is a conditional use permit to allow a larger storage structure. The property is located within a subdivision. The setback requirements would be 63 feet to the centerline and 30 feet to the R-O-W. Zangl posed the question of whether or not Roach Lane was a legal, dedicated road. There is no firm definition of what a road is. It is usually determined by whether it is dedicated to the public or not. In this case, it is shown on the subdivision plat, but there is no firm language that it is dedicated. Another thing to consider is if the town collects gas tax for that town road. This road does not collect gas tax. The attached garage is being proposed at 18 feet to the R-O-W and 56 feet to the centerline, which are below the standard setbacks. The substandard lot setback is 25 feet to the R-O-W. The lot is a bit smaller than the standard lot size. If you would use the sub-standard lot setback, it still does not meet the setbacks. There have been no properties along that road with recently issued permits, so there is not much to go by as to what setback was

used for that road. In the end, the proposed detached garage is still encroaching on the setback and would still need the variance, unless it is not determined a road, but a side yard, and then it could be 15 feet. The property is located on a dead end and one of the smallest lots.

Weis asked staff when this was platted. Zangl stated the subdivision plat was established in 1965. Weis noted there should have been permits issued. Zangl stated it was sometime around 1965-1970 after the subdivision was platted. Weis noted there were several zoning changes since the inception of permitting. Weis noted that the road was given a name so some thought must have been given to it being a road. Zangl stated it was probably one of the first subdivisions done in the county at the time, so he was guessing that they were figuring out how to do things. Zangl noted there was a park area with wetland and floodplain as part of the subdivision but the road has not been dedicated to the public. Weis stated if it was not accepted as a road, there would be other issues.

There was a town response in the file approving the petition and noting that Roach Lane is not a town road. The town response was read into the record by Roberts.

Roberts asked about the well location. The petitioner showed the location on the map and explained it was under a cast iron gate in the driveway. Roberts asked for the septic location. The petitioner showed the location of the mound and tanks on the on the map.

Weis stated that if the septic did not exist on the west side of the house, then they would question why the garage could not go there. The petitioner stated he would like to put there. Even if he could put something up on angle and stay away from the septic, there would still be infringement and would be half-way in front of the house.

Roberts asked the petitioner if he was the property owner that constructed the existing storage structure. The petitioner stated he did not. Roberts questioned the size of the building. The petitioner stated it is 52 x 60 feet. Roberts asked staff about R-2 accessory structures. Elsner stated what he is proposing is attached the garage to the home. Roberts stated what he was getting at is that there is already over a 1,000 square foot storage structure and another structure around 500 square feet. Elsner stated he was allowed to have the bigger structure because he went through a conditional use process. The petitioner stated he could not construct another detached structure, and if he wanted the garage he would have to attach the garage and get a variance.

Roberts asked staff how much lot coverage was allowed. Zangl stated that he believed they would not be over the limit, and confirmed with the petitioner the square footage of the garage. The petitioner stated it would be a 26 x 26 feet addition. Zangl stated they would be under the 30% lot coverage limit. Roberts asked the petitioner why he could not use a portion of the existing building for parking. The petitioner explained they did not want to have to go through the snow in the winter.

V1659-20 – William J Krupinski: Variance from Sec. 11.05(f) of the Jefferson County Zoning Ordinance to allow camping at **N3989 County Rd N**, Town of Jefferson, in a proposed A-2 zone, without meeting the requirements for campgrounds as set forth in the Ordinance. This is on PIN 014-0614-1414-003 (0.6 Ac) and is currently zoned Residential R-2.

Bill Krupinski (N3989 County Road N, Jefferson, WI 53549) presented his petition. He stated that this was a request for short term rental of a yurt. They are on a fixed income and needed the additional income to have a decent quality of life. In 2018, they talked to a friend about their situation and he suggested they rent a room at their home as an Airbnb. They began their research for other options, and the yurt seemed conducive to their lifestyles and would attract other artists.

They researched the government regulations for a yurt, and could not find anything about it. The petitioner believed that a yurt is new to Wisconsin law, and he referred to a Bayfield County ruling regarding a yurt. He noted that they are very popular because they allow people to connect with nature, and they are more comfortable and glamorous than a tent. Before they bought the yurt, he spoke with the neighbors, John and Dana Pfeifer, and have kept them informed and they did not object. They built the yurt and a compost toilet. They began with short time rentals with a maximum of two people at a time. It was an immediate hit with artists and writers across the country.

A resident from Fort Atkinson fielded a complaint against their yurt and it worked its way back to Jefferson County. They were contacted by Sarah Higgins from the Jefferson Planning & Zoning Department, and were told they were in violation of building and renting the yurt.

Mr. Krupinski noted they researched the requirements for over a year and could not find anything on it, as it is more like a tent. The inspector that came out to look at the yurt informed him he needed a permit and governmental approval to put up a camping tent in their back yard. He said he did not know that and that was the reason why he didn't seek a permit and approval. He said that Sarah Higgins and Matt Zangl were very helpful in figuring out how to resolve the violation. This is why he is submitting the request today.

Mr. Krupinski explained that the yurt is not a permanent structure like a cabin. It can be taken down, moved, deconstructed or permanently removed. They have also constructed some privacy fencing. People are concerned that by the rental of the yurt, it will create a campground for tourists, which is not true. The State of Wisconsin creates the rules for the yurt for the counties to follow. The state does not require any maximum or minimum acreage for a campground, but Jefferson County requires 40 acres minimum. He noted that other counties require less acreage. He stated that he had a business on the property for over 30 years and no one every complained about cars or people coming and going from the house on a daily basis. The yurt does not attract cars and people aren't there on a daily basis. They rent it out only on the weekends. They have very strict rules as they are senior citizens that are artists and enjoy nature. Other Wisconsin communities will allow rental structures on private property as cabins and upgraded sheds. Many people are interested in what he is doing and they want extra income too, but they want to do it right. He cannot conform to the 40 acre campground requirement and does not want to be in the business of operating a campground. He wants to be in the business of short-term rental of one yurt. What he is proposing leaves no footprint and does no harm to the public interest. He knows what he is doing is novel. All he is requesting is to allow a pilot program for a year or maybe too to determine if this idea can work. Many people in the county like this idea too.

COMMENTS IN FAVOR: Faye Cufal (N3989 County Road N, Jefferson, WI 53549) stated last year they put up their yurt quite late in the year. A month or two had passed, and the neighbors had asked if they had anyone stay in the yurt. She stated that they have had several people rent it, but the neighbors were not aware there were people in the yurt. That is how quiet and respectful everyone has been. It has never been their intention to make a mess in the neighborhood or to make anyone unhappy or uncomfortable. The goal is for it to be a quiet and respectful place where people can come and relax and enjoy the nature and the stars. She said that they did not expect any trouble. The neighbors did not even know it was being rented out at that time.

Jay Fox (N5306 Hillside Drive, Sullivan, WI 53178) was in favor of the petition. He is a 24-year resident of Jefferson County and has a 7 acre hobby farm which is in the Township of Concord. He supports Krupinski and helped set up the yurt last summer and could attest to the fact that this is an authentic yurt. He noted that this was not a permanent structure. He further explained.

Weis stated for the record that Mr. Fox also had submitted a letter which was submitted to the file.

Ms. Cufal further explained the structure.

COMMENTS OPPOSED: Bruce Johnson (21 Talcott Court, Fort Atkinson, WI 53538) was opposed. He stated that the yurt violates the rules. He referenced SPS rules regarding camping. He explained the state requirements which were designed to protect the public. Mr. Krupinski blatantly violated those rules. Mr. Johnson also referred to SPS 327.11 which states it may not be occupied until there is a final inspection. There are hundreds of violations, no permits, and no inspections, and nothing has been approved.

Dan Seisser (N3971 County Road N, Jefferson, WI 53549) explained his concerns that this is too close to town. They did put up a fence, but did not get permits. This is an R-2 zone and he is concerned about their property values.

Mike Hollinger (N3687 S Rapids Rd, Jefferson, WI 53549) spoke on behalf of the Town of Jefferson. The town denied this petition. All the properties are currently zoned R-2. They want to protect the residential zones, and this would not fit in the area. They need to comply with the purpose and intent of the ordinance. There is no hardship.

Weis asked Mr. Hollinger if Krupinski came in to get any building permits. Mr. Hollinger stated no permits have been applied for. Hollinger submitted his notes to the Board.

Dana Pfeifer (N3981 County Road N, Jefferson, WI 53549) was opposed. She stated that she was not aware the Krupinski's were putting up a yurt. She had a problem with the outhouse, so Mr. Krupinski prosed to put up a fence which he did. She knows every time someone is there and it makes her uncomfortable with people there she does not know so near to her home and garage.

Paul Vogel (N3985 County Road N, Jefferson, WI 53549) was against the petition because it's residentially zoned.

Curtis Backlund (W7131 County Road J, Fort Atkinson, WI 53538) was in support of the town's decision. He stated nothing was done in proper order and that Krupinski had no consideration of the rules.

REBUTTAL: Jeanine Collette, Attorney for Mr. Krupinski, stated when he received the violation from the county, he contact his attorney friends. He did not understand. She did some research in regards to a court ruling in Bayfield County. She contacted SPS. She stated that there are a lot of layers to the law. It is running a business. The composting toilet ordinance really does not have anything, but there are regulations for a vault privy. When the zoning change occurred is not clear. The yurt can be moved and can meet the setbacks. Mr. Krupinski is now aware of the fencing requirement and the permitting.

Faye Cufal stated that before they put the yurt up, she looked at the Jefferson County ordinances, and found nothing.

Staff report was given by Zangl and submitted in the file. He stated that this was a 0.60 acre R-2 zoned lot. In 1992, a mound septic system was installed. A violation notice was sent out by the Zoning Department and then Mr. Krupinski contacted us indicating this was a yurt. Zoning staff inspected the yurt and compost toilet at that time to make a determination if it was a structure versus a camping structure.

There are 2 options. 1) The yurt can be considered a structure or 2) a tent/camping structure. Camping is prohibited unless it's in a designated campground. If the structure is considered a camping structure, then the property needs to be rezoned to A-2 with a conditional use permit for camping and a variance because it would be on less than 40 acres. The petitioner proceeded with option two.

The petitioner is asking to reduce the lot size requirement from 40 acres to 0.60 acres and will go before the Planning & Zoning Committee for the rezoning and conditional use permit request.

Attorney Collette had two questions regarding 11.05(f), camping, and fencing. She did note they could meet the 40 foot setback and asked about the height of the fencing. Zangl stated the perimeter of the parcel or camping area must be fenced. They intend on fencing it in. What or where needs to be reviewed with the Planning and Zoning Committee. Attorney Colette asked about the determination of it being an accessory structure instead of a camping structure. Zangl explained that they are only allowed one residential structure and further explained the requirements and septic requirements. The yurt is off the property line and is about 60 feet to the nearest neighbor.

Roberts questioned the 40 feet. Zangl stated 40 feet from the property line. Roberts noted there was plenty of room to meet the setbacks. Zangl explained there were three houses within 100 feet from this property in a residential area. There was discussion about requirements set by the Department of Agriculture, Trade and Consumer Protection (DATCP). Yurts are regulated by ATCPA 51 – Health Department. DSPS regulates the compost toilets. Bayfield County is geographically very different than Jefferson County. Regarding an Airbnb, we are not taking a stance at this time. They are renting out a separate residential unit.

Zangl reminded the Board to review the three standards to be answered.

Weis asked staff if there have been any permits issued. Zangl said none.

Mike Hollinger commented on the 40 foot setback and the yurt's width. Zangl made comment on updating the ordinance. Bruce Johnson made rebuttal to Attorney Collette. He further explained the state's definition of a camping unit.

Weis noted for the record there was an email in the file from an Angie Schopen who was in favor of the petition.

Jaeckel asked who inspected the yurt. Krupinski stated the Zoning office did. Weis commented on the violation and clarified with Zangl about the inspection that was done. Weis asked staff if the ordinance addresses a yurt. Zangl stated that it does not address a yurt specifically. Camping and a campground are defined and this use meets the definition.

Weis explained the responsibilities of the Board.

Attorney Collette – DHS 178.34 definition

Weis explained composting toilets, the classification of plumbing products, DSPS review & issue approval.

Zangl noted the lot width was 103.5 feet. Weis noted it was at least 75 feet from the river. Fox commented that if they purchased the lot to the north that would help increase their lot size.

V1660-20 – James Work: Variance from Sec. 14.4.3(2) of the Jefferson County Zoning Ordinance to allow for an accessory structure in an R-2 zone to be placed at ground level within the flood fringe at **W7671 Lamp Rd.** The site is on PIN 028-0513-1233-011 (0.11 Ac) in the Town of Sumner.

Mr. Work was not present. No action was taken.

Break at 2:30pm, reconvene for decisions 2:35pm.

11. Discussion and Possible Action on Above Petitions (see following pages & files)

12. Adjourn

Roberts made motion, seconded by Jaeckel, motion carried 3-0 on a voice vote to adjourn at 3:23 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 at the Jefferson County Courthouse in 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.

Additional information on Zoning can be found at www.jeffersoncountywi.gov

Minutes prepared by: *Laurie Miller*
Zoning Program Assistant
Jefferson County Planning and Zoning Department

Dale [Signature] **CHAIRMAN** 4-21-20 **DATE**
SECRETARY
WASNOT AT MEETING

