

**JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT**

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

THE BOARD OF ADJUSTMENT WILL MEET ON THURSDAY, APRIL 8, 2021 AT 10:15 A.M. Members of the public may attend Via Zoom Videoconference or in Room 205, Jefferson County Courthouse, 311 South Center Avenue, Jefferson, WI.

THE BOARD OF ADJUSTMENT WILL LEAVE FOR SITE INSPECTION AT 10:30 A.M.

PETITIONERS OR MEMBERS OF THE PUBLIC MAY ATTEND THE MEETING VIRTUALLY BY FOLLOWING THESE INSTRUCTIONS IF THEY CHOOSE NOT TO ATTEND IN PERSON.

**Join Zoom Meeting**  
Register in advance for this meeting:  
[https://zoom.us/meeting/register/tJEoce6sqz4oH9MhFxYB\\_TP4Sq7MFBBifXHI](https://zoom.us/join/zoom/register/tJEoce6sqz4oH9MhFxYB_TP4Sq7MFBBifXHI)  
Meeting ID 955 6745 5257  
Passcode Zoning

**1. Call to Order**

Meeting called to order @ 10:35 a.m. by Weis

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

Members present: Weis, Hoeft, Jaeckl

Members absent: Roberts

Staff: Brett Scherer, Laurie Miller

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

Staff confirmed compliance.

**4. Approval of the Agenda**

Hoeft made motion, seconded by Jaeckel, motion carried 3-0 on a voice vote to approve.

5. **Approval of February 11 and March 11, 2021 Meeting Minutes**

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

NOTE: Jaeckel was not present at either meeting and did not vote.

6. **Communications - NONE**

7. **Public Comment** (Not to exceed 15 minutes and not to include the petition slated for decision. Members of the public who wish to address the Committee on specific agenda items must register their request at this time) - NONE

8. **Site Inspection** – Leaving from Courthouse Room 205 and Driving to the Following Site:  
V1678-21 – John & Bonnie Nowak Trust Property, **W1476 North Blue Spring Lake Dr**,  
Town of Palmyra, on PIN 024-0516-2843-007

9. **Public Hearing – Beginning at 1:00 p.m. in Courthouse Room 205 – Petitioners or their representatives MUST be present in person or via Zoom**

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

Members present: Weis, Hoeft, Jaeckel

Members absent: Roberts

Staff: Matt Zangl, Brett Scherer, Laurie Miller

10. **Explanation of Public Hearing Procedure by Board of Adjustment Chair**

The following was read into the record by 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, April 8, 2021 in Room 205 of the Jefferson

County Courthouse, Jefferson, WI. 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:

**V1678-21 – John L Nowak:** Variance from Sec. 11.09(c) of the Jefferson County Zoning Ordinance to structurally alter a non-conforming home at **W1476 North Blue Spring Lake Drive** in excess of 50% of the structural members of the existing structure. The site is on PIN 024-0516-2843-007 (2.13 acres) in an R-1 zone, Town of Palmyra.

Bonnie Nowak, W1476 N Blue Spring Lake Drive, presented the petition. She stated they would like a 2<sup>nd</sup> floor over the garage for storage. There is no basement in the house, so they need additional storage.

Weis asked about the construction. The petitioner stated it was a 3-car garage with a second story, but they had no approval for putting in the flooring for a second story. John Nowak stated that they need the second floor because the house does not have a basement. It was an old school house at one time on a slab. They made the garage big enough so they could put a second story up there for storage.

Opposed was Weenonah Brattset who is a supervisor on the Palmyra Town Board and was appearing on behalf of the Town Board. She stated they were opposed because the permit was originally for no greater than 18' in height and to be open to the rafters. Now they are proposing 24' 8" in height with the beginning of a second floor being constructed. She further explained. They had concerns about the second floor when the original permit explicitly denied a second floor.

Dick Natrop, W1466 South Shore Drive, noted he was a Commissioner on the Blue Spring Lake Management District Board. He referenced the letter in the file, and noted that he was here as a

private property citizen. He stated they were fully aware when they bought the property that there was no basement or a garage. When they originally applied for the permit that was granted and was granted certain restrictions based on it being a non-conforming property which were not met and felt that they were blatantly ignored. As time and the construction of the building progressed, the property became cluttered with trailers, construction debris, etc... There have been numerous complaints from the neighbors for the condition of the property. He further explained and was concerned that this may set a precedent.

Brian Randall, appearing by Zoom, who lives at 204 N 86<sup>th</sup> Street, Wauwatosa but also has a property at W1473 N Blue Spring Lake Drive had questions. He asked staff if this variance was to regulate the location, the height, exceed the 50% structural members or to approve after-the-fact after doing some of the work, or was it a combination. Weis noted that was what they were here to determine, and asked Mr. Randall to listen to all the testimony and then refer to any questions he may have.

Zangl gave staff report. He noted the property was zoned R-1, Residential on public sewer. It is a non-conforming structure because it does not meet the road setback to both roads. He referenced Sec. 11.09(c). The owners are requesting a garage addition going east of the existing structure. They can go up to a 50% expansion of the footprint of a non-conforming structure or 50% of the structural members in which they are maxed out. The permit allowed them to do their addition, but by adding a second floor, it would then put them over the limits. They did cut it down on the footprint expansion and structural members. He further explained the structural members.

A permit was issued for the addition to be 18' in height which they intended to be at 24' which was rectified. The intent was to be that high but not to put in a floor to create a second floor. The height exceeded what they were issued a permit for. The actual height is closer to 25', but they can go up to 35', and it can be corrected through a permit. Adding a ceiling/floor adds to the allowable structural members for a non-conforming structure. They did revise the permit to correct the height. This variance is to have the second story addition which requires the variance by exceeding the structural members allowed.

Weis questioned the roof section being the original school house. Zangl believed so and further explained. Bonnie Nowak stated that she read the blueprint wrong so the height was wrong. She stated they would like to get rid of the trailers, but they have no place for storage. Weis asked if they have a permit from the town. Bonnie Nowak stated they issued it off of the original permit. Zangl stated the town building inspector would issue that permit, and asked Ms. Brattsett if the town would issue a permit for this. Weenonah Brattset stated they did issue the permit but noticed the building did not match the permit. Zangl clarified the height situation was dealt with when they were issued a revised permit. Bonnie Nowak explained that the plywood was put there to put the trusses up, but if they had to, it could be removed.

Hoeft noted they maxed out the footprint expansion and asked for clarification on the structural members. Zangl further explained that with their proposal to add the second floor, it will put them over the allowed structural members portion and into a variance.

Weis asked if the plywood was placed loosely on the trusses. The petitioner stated that was right. Weis asked Zangl if they removed the plywood, could it then be then a 1-story structure. Zangl stated they would have to take a look at it. Jaeckel noted the joists would still be there and it would still be a second floor whether they take the plywood off or not. There was further discussion on the second floor and its construction.

There was a decision in the file from the town denying the petition which was read into the record by Hoeft. Hoeft noted there was also a letter in the file from the Blue Spring Lake Management District Board.

Dick Natrop commented on the original permit with the note that there will be no second floor and be open to the rafters. Hoeft noted it was a tall, 1-story building. Zangl stated that was what was permitted. Hoeft stated they added a second floor, and that is why they were here. Zangl stated that was correct. They have started to add the second floor, but did not know how far they were. Weis noted there is a safety issue for the floor to withstand or be strong enough to support a second floor. There was further discussion on their options if the Board approved or denied the variance.

John Nowak stated he told the engineer/draftsman to make the supports strong enough to hold a second floor. They have three trailers with additional vehicles in their yard. This would eliminate the problems in the yard.

## **11. Adjourn**

Jaeckel made motion, seconded by Hoeft, motion carried 3-0 on a voice vote to adjourn @ 1:53 p.m.

**If you have questions, please contact the Zoning Department at 920-674-7113 or 920-674-8638. Files referenced on this agenda 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](http://www.jeffersoncountywi.gov).**

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](http://www.jeffersoncountywi.gov)



Secretary



Date

DECISION OF THE ZONING BOARD OF ADJUSTMENT  
JEFFERSON COUNTY, WISCONSIN

FINDINGS OF FACT

PETITION NO.: 2021 V1678  
HEARING DATE: 04-08-2021

COPY

APPLICANT: John L Nowak

PROPERTY OWNER: John & Bonnie Nowak Trust

PARCEL (PIN) #: 024-0516-2843-007 (W1476 N Blue Spring Lake Dr)

TOWNSHIP: Town of Palmyra

INTENT OF PETITIONER: Construct a second floor within the building

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.09 (c) 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:

- Zoning Permit #62718 issued in 2018 for an attached garage and building expansion
- Building is non-conforming because it does not meet the required road setback
- Any additions are limited to:
  - Less than 50% footprint expansion
  - Less than 50% Structural Members alteration/expansion
- 2018 permit utilized all of the possible expansion
- Property owner would now like to expand the interior of the existing building by adding a second floor inside of the structure – no footprint expansion
- By adding the second floor, that places the structure over the allowed expansion of the structural members
- Zoned R-1 sewerred
- Town denied request

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 A USE OF LAND OR PROPERTY WHICH WOULD VIOLATE STATE LAWS OR ADMINISTRATIVE RULES: \_\_\_\_\_
- B. SUBJECT TO THE ABOVE LIMITATIONS, AREA VARIANCES MAY BE GRANTED WHERE STRICT COMPLIANCE WITH THE ZONING ORDINANCE RESULTS IN AN UNNECESSARY HARDSHIP WHICH WOULD UNREASONABLY PREVENT THE PETITIONER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE, OR WOULD RENDER CONFORMITY WITH THE ZONING ORDINANCE UNNECESSARILY BURDENSOME, AND WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, AND THE PUBLIC INTEREST NOT VIOLATED.
- C. SUBJECT TO THE ABOVE LIMITATIONS, USE VARIANCES MAY BE GRANTED WHERE STRICT COMPLIANCE WITH THE ZONING ORDINANCE WOULD LEAVE THE PROPERTY OWNER WITH NO REASONABLE USE OF THE PROPERTY IN THE ABSENCE OF A VARIANCE AND WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, AND THE PUBLIC INTEREST NOT VIOLATED.

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

1. UNNECESSARY HARDSHIP **IS NOT** PRESENT IN THAT A LITERAL ENFORCEMENT OF THE TERMS OF THE ZONING ORDINANCE **WOULD NOT** UNREASONABLY PREVENT THE OWNER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE OR WOULD RENDER CONFORMITY WITH SUCH RESTRICTIONS UNNECESSARILY BURDENSOME (AREA VARIANCE) OR STRICT COMPLIANCE WITH THE ZONING ORDINANCE WOULD LEAVE THE PROPERTY OWNER WITH NO REASONABLE USE OF THE PROPERTY (USE VARIANCE) BECAUSE Weis: They have a permit for the original use they proposed for the building. Jaeckel: They asked for the addition which adds to the space they asked for.
2. THE HARDSHIP OR NO REASONABLE USE **IS NOT** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE Hoef: The footprint is already maxed out. If they were looking for additional storage, there is plenty in area. Weis: It is not due to the physical limitations of the property. Jaeckel: There are no physical limitations to the property. The property is not causing the limitation.
3. THE VARIANCE **WILL** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE Hoef: Despite an extension for a 18', one-story design, they are asking to go over the standard qualifications. Weis: There is a violation of the issued township building permit. Jaeckel: It would be contrary to public interest. They were told what they could do. It would now be contrary to public interest.

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

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

**MOTION:** Hoef **SECOND:** Jaeckel **VOTE:** 3-0 (Voice Vote)

SIGNED: Dale Hoef (Sm) DATE: 04-08-2021  
CHAIRPERSON

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