

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, DECEMBER 9, 2021 AT 10:30 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 INSPECTIONS AT 10:45 A.M.

PETITIONERS OR THEIR REPRESENTATIVES MUST BE IN ATTENDANCE FOR THE PUBLIC HEARING AT 1:00 P.M. PETITIONERS AND OTHER MEMBERS OF THE PUBLIC MAY ATTEND THE MEETING. VIRTUALLY BY FOLLOWING THESE INSTRUCTIONS IF THEY CHOOSE NOT TO ATTEND IN PERSON:

Register in advance for this meeting:

https://zoom.us/meeting/register/tJEoce6sqz4oH9MhFxYB_TP4Sq7MFBBifXHI

Meeting ID 955 6745 5257

Passcode Zoning

After registering, you will receive a confirmation email containing information about joining the meeting

1. Call to Order-Room 205 at 10:30 a.m.

Meeting called to order @ 10:30 a.m. by Weis

2. Roll Call (Establish a Quorum)

Members present: Weis, Hoeft, Roberts

Members Absent: --

Staff: Matt Zangl, Laurie Miller

3. Certification of Compliance with Open Meetings Law

Staff presented proof of publication.

4. Approval of the Agenda

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

5. Approval of November 11 Meeting Minutes

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

6. **Communications** - None

7. **Public Comment** - None

8. **Site Inspections – Beginning at 10:45 a.m. and Leaving from Room 205**

V1697-21 -Dennis & Christine Sukow, W4520/W4524 County Road B, Town of Farmington

V1698-21 – Daniel Kowalski, N8043 Springer 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: Weis, Hoeft, Roberts

Members absent: ---

Staff: Matt Zangl, Laurie Miller

10. **Explanation of Process by Committee 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, December 9, 2021 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 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:

V1697-21 – Dennis & Christine Sukow: Variance from Sec. 11.04(d) of the Jefferson County Zoning Ordinance to allow for two existing residential dwelling structures on a proposed 1.4- acre A-3 zone at **W4520/W4524 County Road B**. The site is on PIN 008-0715-1811-000 (37.41 acres) in the Town of Farmington.

Christine Sukow (811 E Racine Street, Jefferson) presented her petition. She read a statement into the record. She noted it has been a two-family property for years. When they purchased the property, there was only one well with two houses and a barn. The second house was grandfathered in, and they were able to update it by replacing it on a basement. A second driveway would cost them and would split up the farmland.

Dan Higgs, Surveyor with Combs & Assoc., stated he contacted the Highway Department and spoke with Ryan about getting another access. He was told that they would have to come out to do a site distance test. He explained that going westbound should be OK, but there is a hill going eastbound, and a driveway to the west of the existing would only be closer to that hill which has a pretty steep grade.

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

Staff report was given by Zangl. He noted the property is zoned AT Agricultural Transition. There is also a rezoning proposed which the town approved. He referenced the map in the front and noted the proposed lot was outlined in blue. There are old permits on file which clearly show there have always been two homes on the property. They could put a lot line between the homes; however, the biggest issue is the site distance for a second driveway and the septic systems area in the front yard. He asked the surveyor how far apart it was between the two houses. Mr. Higgs stated he did not know. If it was divided into two lots, it would need to meet the minimum lot size, and it would have to expand into the agricultural lands. The petitioner stated that there was one well for the two houses.

Hoelt asked staff to explain a shared driveway. Zangl stated they could have a shared driveway. The ordinance doesn't necessarily regulate shared driveways so they can have one, but he would recommend having an easement agreement. From the Zoning Committee's perspective, as long as the lot has frontage and access to the public road, it meets the zoning ordinance definition. Weis asked what the rezoning petition was for. Zangl stated they were proposing an A-3 Rural Residential zone. The surveyor asked staff if they had talked to the Highway Department. Zangl stated no, they were notified, but there was no response.

Roberts noted they have 37 acres and asked what the overall plans were for the property. The petitioner stated they want to keep the farmland. Roberts asked the petitioner their reason for the

split. The petitioner stated they want to sell off the houses. Roberts noted they could probably get more money if they sold them off separately. The petitioner stated they have had offers for the property as it is. Roberts noted that they could use a shared driveway and have an easement. If the septic fails, they would need to have more room on the lot for the replacement systems. The petitioner stated that they just had them inspected and they are good. Otherwise, they would have replaced them. Roberts asked where they would replace them. Weis noted there are several possibilities for replacement.

Roberts asked the surveyor how big the proposed lot was. The surveyor stated it was 1.4 acres. Roberts noted they could use lands to the side and back of the property to meet the minimum acreage and make it two lots. The petitioner stated they would then have to put in another well. Roberts stated they could have a shared driveway and shared well. The petitioner noted the well was replaced in 2012 or 2013. The surveyor explained that in order to get the additional .6 acre needed to meet the minimum lot size, they could use the lands to the west for about 115'. On the east and north, it would be hugging the field. There was further discussion on how it could be split into two lots to give each lot one acre.

Weis made comment about using a shared driveway. Usually, once you get past the ROW, the driveway will split off which is somewhat of a complication because of the location of the well and septic. He was not sure that a shared driveway would be easy to accomplish. Hoeft commented on the three criteria required for them to approve, and could not get past a negative to number two. She stated that she thought this was doable. It may not be the simplest thing to do, but it is definitely doable. Roberts noted they have the option to create two lots. Weis asked what the size limit was for the lots or how large they could go. Zangl stated this would be a farm consolidation, so the committee likes to keep it as small as possible which would be around one acre or an area that would incorporate all the buildings.

Weis noted they could access from Spring Lane. Both lots could have access and they would be more separated. The problem with coming off of County Road B, there's no easy way to share a driveway and then split off. But if access was on Spring Lane, it would be easier. Zangl stated they agree that they could create two lots. The problem that occurs is with access for house to the west. There was further discussion on access, shared access and other options the petitioner has.

V1698-21 – Daniel Kowalski: Variance from Sec. 11.07(d)2 of the Jefferson County Zoning Ordinance to allow a reduced road centerline setback for an addition proposed at **N8043 Springer Road**, Town of Waterloo, on PIN 030-0813-2621-002 (2.03 acres). The property is zoned A-3, Agricultural/Rural Residential.

Dan Kowalski (N8043 Springer Road) stated he was looking to add onto the south end of the existing garage which would create a third stall. The problem is that the front corner projects out a few feet. He looked at other options, but the well is on the west and the septic is on the east. They are asking for a minimal offset. Behind the garage, the property slopes down and they would want the driveway to access the addition. The lot is not flat. There is wetland behind them and matu

trees which they want to stay away from. To the west, there's a drainage pipe that comes in underneath the road. He is asking for only a few feet closer to the ROW.

Roberts asked about the roof. The petitioner stated that he would be changing the roofline and it would pitch away from the garage. Roberts asked what the square footage was for the existing garage. The petitioner stated it was a 36'x40' garage. Weis noted he was asking to be closer to the ROW, and asked if that measurement was from the roofline or from the foundation. There would be a 2' roof edge. He meets the ROW setback but not the centerline from literally just the corner of the building. Weis asked if his measurement was from the roof or foundation. The petitioner stated from the roof and further explained.

Roberts asked how big the addition was that they were proposing. The petitioner stated 13'. There was further discussion on the setback. The petitioner noted that having a 5' variance would be safe. The addition would be 13'x23' with no more than a 2' overhang.

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

Hoeft asked the petitioner if where the existing cement was how far he was going out. The petitioner stated yes.

11. Discussion and Possible Action on Above Petitions

The public hearing was closed @ 1:51 p.m. for discussion and decisions. (See following pages and files.)

12. Adjourn

Weis made motion, seconded by Roberts, motion carried 3-0 on a voice vote to adjourn @ 2:08 p.m.

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

Janet A. Gray

Secretary

2-18-22

Date

Drafted by: Laurie Miller, Zoning Assistant
Zoning Department

DECISION OF THE ZONING BOARD OF ADJUSTMENT
JEFFERSON COUNTY, WISCONSIN

COPY

FINDINGS OF FACT

PETITION NO.: 2021 V1697
HEARING DATE: 12-9-2021

APPLICANT: Dennis & Christine Sukow

PROPERTY OWNER: DDC Rentals LLC

PARCEL (PIN) #: 008-0715-1811-000 (W4520 & W4524 County Road B)

TOWNSHIP: Farmington

INTENT OF PETITIONER: Create a new A-3 zoned lot with 2 existing single family homes

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(d) 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:

- Currently zoned A-T, Agricultural Transition (36.54 ac.)
- Variance from section(s) 11.04(d)
 - Petitioners are looking to allow for two primary living structures in a single A-3 zone.
 - Currently appears to have a single-family home and mobile home on the property.

-Sanitary Permits

- #12820- 2014 for mobile home (replacement).
- #6714- 1988 for single family home (replacement).
- #118- 1968 for mobile home (abandoned).
- LU Permit #60857- 2015 for detached garage.
- LU Permit #60227- 2014 for attached garage with deck/steps.
- LU Permit #59535- 2012 for mobile home replacement.
- LU Permit #42680- 1997 for gazebo.
- LU Permit #24969- 1988 for single family home and attached garage.
- LU Permit #5577- 1976 for a mobile home.
- LU Permit #5631- 1968 for a mobile home.
- LU Permit #5632- 1968 for a mobile home.
- Town approved on 11-8-2021

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

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

COPY

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 _____
- 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 _____
- 3. THE VARIANCE **WILL** 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 **DENIED**.

MOTION: Hoeft

SECOND: Roberts

VOTE: 3-0 (roll call vote)

The Board noted there are several other options available versus granting a variance. They could explore a second access on County Road B or Spring Lane. The buildings are approximately 60' apart and could meet side yard setbacks.

SIGNED: Dale Hoelt (Hm)
CHAIRPERSON

DATE: 12-09-2021

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.: 2021 V1698
HEARING DATE: 12-09-2021

APPLICANT: Daniel Kowalski

PROPERTY OWNER: Daniel J & Tamara J Kowalski Trust

PARCEL (PIN) #: 030-0813-2621-002 (N8043 Springer Road)

TOWNSHIP: Waterloo

INTENT OF PETITIONER: Allow a reduced road centerline setback for a proposed addition to an existing detached garage.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.07(d) 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:

- Currently property is zoned A-3, Agricultural Rural/Residential.
- Variance from section(s) 11.07(d).
 - Petitioners are looking for reduced road setbacks for a garage addition.
- Existing garage footprint (2002) = 850 sq. ft.
- Proposed addition sq. ft. = 300 sq. ft.
- Total proposed sq. ft. of structure = 1,150 sq. ft.
- Required setback from road centerline = 85 ft
 - Proposed setback from road centerline = 83'
- Required setback from road right-of-way = 50 ft
 - Proposed setback from road right-of-way = 50'
- LU Permit #64280- 2021 for Lean-to addition to existing shed.
- LU Permit #56436- 2007 for a shed.
- LU Permit #52500- 2002 for a single-family home.
- LU Permit #52501- 2002 for a detached garage.
- Sanitary Permit #10891- 2002 for a single-family home.
- Town approved on May 12, 2021

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

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

