

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, JUNE 9, 2022 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 INSPECTIONS AT 10:30 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://us06web.zoom.us/j/88432018141?pwd=RjNkakh5YnROYzd5UDBOMXNEY05HUT09>

Meeting ID 884 3201 8141

Passcode Zoning

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

1. Call to Order-Room 205 at 10:15 a.m.

Meeting called to order @ 10:15 a.m. by Weis

2. Roll Call (Establish a Quorum)

Members present: Weis, Hoeft, Roberts

Members absent: ----

Staff: Brett Scherer, Laurie Miller

3. Certification of Compliance with Open Meetings Law

Hoeft acknowledged publication. Staff also presented proof of publication.

4. Approval of the Agenda

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

5. Approval of April 14, 2022 Meeting Minutes

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

6. Communications

Scherer introduced Haley Nielsen to the Board who is working as an intern for the summer.

Election of officers will be coming up on the next meeting.

7. Public Comment - None

8. Site Inspection – Beginning at 10:30 a.m. and Leaving from Room 205

V1702-22 – Gary Brzezinski, N831 County Road H, Town of Palmyra

V1703-22 – Nathan & Nicole Meyer, W1718 Bente Rd, Town of Sullivan

V1704-22 - Anna Cassidy, N4126 Sleepy Hollow Rd, Town of Oakland

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

Meeting called to order @ 1:05 p.m. by Weis

Members present: Weis, Hoeft, Roberts

Members absent: ---

Staff: Brett Scherer, Laurie Miller

10. Explanation of Process by Committee 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, June 9, 2022 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:

County Board Supervisors and appointed Board members attending meetings remotely shall have the same rights and privileges as they would have when appearing in person. The official meeting will be convened at the location on the meeting agenda. If appearing remotely, it is the responsibility of the member to maintain audio and video connectivity with the official meeting site. If connectivity is lost, but the physical location of the meeting maintains a quorum, the meeting may continue in the discretion of the chair. Members attending remotely must be able to be heard, and when video is available to the member attending remotely, seen by Committee/Board members and public who are present at the physical location of the meeting. Loss of connectivity will result in the member being considered absent from that portion of the meeting after connectivity is lost.

V1702-22 – Gary Brzezinski: Variance from Sec. 11.03(f)2 and 11.04(f)9 of the Jefferson County Zoning Ordinance to allow an accessory structure without the principal structure at **N831 County Road H** in the Town of Palmyra. This is on PIN 024-0516-2722-004 (1.27 ac) in an A-3, Agricultural/Rural Residential zone.

Gary Brzezinski (W225 S7800 Sunset Glen Ct, Big Bend WI) presented his petition. He stated that he wants to put up a small garage to be able to store equipment to maintain the property and a few other items so he can enjoy the property.

Roberts asked how big the shed was. The petitioner stated it would be 384 square feet and noted there was a shed there before he bought the property. He now wants to replace it with something nicer until he builds his house. This is a unique property with the neighboring septic being located on this property.

Roberts asked how big the existing shed was. The petitioner stated it is 8'x12'. Roberts asked if he would be taking it down. The petitioner stated that if the Board wanted him to, he would take it down. Roberts asked when he was planning on building the home. The petitioner stated that with all the septic running through the property, it has been difficult to come up with a plan.. He was hoping to build in a few years.

Weis asked the petitioner to explain the other septic on the property. The petitioner stated there is a house and a structure that was previously a business next door. The septic for the business is located in the middle of the lot, and the septic for the house is in the front of his lot. When he builds his house, he will also need a septic so he needs to try to fit the house in between all the septic fields and maintain the road setback. Weis asked if there were any legal agreements to allow all the septic systems on this property. The petitioner stated yes. He explained that this all used to be one lot which has been broken into three parcels.

Weis asked if there was a well on the property. The petitioner stated no, but that Herr was out to the property to help locate an area for a well placement. Scherer asked the petitioner if he was proposing to have water or septic for the new garage. The petitioner stated he was not asking for that today. He asked staff if he was okay with the height he was proposing. Sherer stated he should be fine. Weis asked if there were public utilities available. The petitioner stated not at this point and further explained. Hoeft asked if he could even fit a house on the lot. Sherer stated he could if he meets the minimum standards. The petitioner stated he could propose a house at a 1,200 square foot maximum.

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

Hoeft asked staff about Section 11.04(f)9 referenced in the hearing notice. Scherer note it was an error and that it is not applicable. Roberts asked the petitioner about electric utilities. The petitioner stated that he made contact with the electric and gas utilities and he has the applications to fill out. Roberts asked about the condition of the existing shed. The petitioner stated that it would need to be re-shingled & painted. The floor could not support a riding lawn mower.

Staff report was given by Sherer. He noted the petitioner was looking to add an accessory structure without the principal structure. The height would be under 18' and the structure would be used to maintain the property and to store recreational items.

V1703-22 – Nathan & Nicole Meyer: Variance from Sec. 11.04(f)8 of the Jefferson County Zoning Ordinance to allow deck construction at less than the required 20-ft rear yard setback in an A-3, Agricultural/Rural Residential zone. The site is at **W1718 Bente Rd** in the Town of Sullivan, on PIN 026-0616-2014-004 (2.01 ac).

Nicole Meyer (W1718 Bente Road) presented the petition. She stated they wanted to put a deck on the back side of the house. They also own the 32 acres around the house lot which is 2 acres. The deck will line up with the property line and within the 20' setback. The setback on the one side is currently at 24'. They want to put the deck on the full backside of the house. She explained the steepness of the lot on the one side and the deck design. She noted it was a safety issue with small children, and this deck would help.

Weis noted they did a site visit and saw the patio doors there which could be a nasty fall without the deck. The steep slopes were confirmed on the site inspection. Roberts noted it appeared they put the house in the wrong spot. The petitioner stated that the field behind them cannot be built on and it would not interfere with other people. They would be far enough away from the well and septic.

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

Staff report was given by Scherer. He noted they would be at 18' from the rear setback. The required setback is 20' which is a difference of 2'. The property is zoned A-3. They have a recent sanitary and house permit from 2017.

Roberts asked for confirmation of the setback from the petitioner. The petitioner stated they were asking for an 18' setback. Roberts noted they may want to have more room, possibly a 10' variance. Weis asked staff if the surrounding lands were not buildable because it was zoned Natural Resources. Scherer stated the lands were zoned A-1. The petitioner explained the previous splits. There was further discussion on a possible 10' setback.

V1704-22 – Anna Cassidy/Christopher & Anna Marie Cassidy Property: Variance from Sec. 11.09(c) of the Jefferson County Zoning Ordinance to allow an existing detached garage to be added to the home at **N4126 Sleepy Hollow Rd**, Town of Oakland, resulting in reduced road and rear setbacks, and exceeding alterations in excess of 50% of the structural members of the existing structure. This is on PIN 022-0613-0743-037 (0.32 ac) in a Residential R-1 zone.

Anna Cassidy (N4126 Sleepy Hollow Road) was present. David Evans (contractor) was also present. Cassidy stated that this is a narrow, substandard lot. Five feet from the house, there is a detached garage. The owners before them built the garage with a finished room above the garage. The garage is 20'x38'. The garage connects to the house by a roof overhead and a 5' deck. Because the house is small, they want to add onto the house and use the storage space, so they want to put the addition across the existing deck. They would also like to add a balcony off the storage space of the garage. It is a lakefront property with no impermeable surface issues. The setbacks are different for a detached garage and the house. The existing garage is 6' off the lot line. She went to the front map to show the Board the property and further explained her proposal.

Roberts asked for the square footage of the house. Evans stated the main floor was 1,451 square feet. The petitioner explained the layout of the existing cottage. Roberts stated the garage was 28'x30' which could add a considerable amount of space to the house. The petitioner further explained. Roberts asked how many bedrooms there were. The petitioner stated there were three. Roberts asked how many bathrooms. The petitioner stated there will be 2½ when they get done with the remodel. Roberts asked if the addition would have water. The petitioner stated no. Roberts asked if the structure could handle the addition. Evans stated the project has been engineered. The addition would only be 5'x25'.

There were no questions or comments in favor or opposition of the petition. Roberts asked for the well location. The petitioner stated they have two wells. One is in the garage which has been shut off for a long time and the other is in the utility area part of the old cottage. Roberts asked if this was on public sewer. The petitioner stated yes.

There was a town response in the file from the town that approved all three requests which was read into the record by Weis.

Staff report was given by Scherer. He noted this was a R-1, substandard lot with a nonconforming structure. There is a 15' rear setback and 25' street setback requirement. They are requesting a 9'

reduction to the rear setback and 4' for the street for the balcony. The rear setback changes because they are adding the detached garage to the house. Because the garage is becoming part of the primary structure by adding it to the house, it would also exceed the structure members allowed to be added. There are permits on file, and there will be no mitigation required because they are using existing structures.

Roberts asked if they were meeting the lake setbacks. Scherer stated they are OK with that setback and they are out of the wetlands. Roberts asked if the garage went up in 1989. Scherer stated yes and it met the setbacks at the time for a detached structure.

11. Discussion and Possible Action on Above Petition

12. Adjourn

Hoeft made motion, seconded by Roberts, motion carried 3-0 on a voice vote to adjourn @ 2:33 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

DECISION OF THE ZONING BOARD OF ADJUSTMENT
JEFFERSON COUNTY, WISCONSIN

COPY

FINDINGS OF FACT

PETITION NO.: 2022 V1702
HEARING DATE: 06-09-2022

APPLICANT: Gary Brzezinski

PROPERTY OWNER: SAME

PARCEL (PIN) #: 024-0516-2722-004 (N831 County Road H)

TOWNSHIP: Town of Palmyra

INTENT OF PETITIONER: Allow for the construction of an accessory structure without the principal structure 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:

- Property zoned A-3, Agricultural/Rural Residential (1.27 Ac)
- Section 11.04(f)8 requires principal structure to be present on lot prior to building of accessory structures
- Request is to allow for accessory structure without principal structure
- Sanitary permit #7443 is for septic system on neighboring lot to the northeast
- Easement was recorded for part of septic for neighboring lot being on this property; drainfield of neighboring system is on this lot (see site plan and septic plans for location)
- Proposed garage is 16'x24' and 8' in height
- Structure will be used for storage of lawn equipment/recreational items
- Town was in favor 4/11/2022

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** 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 (AREA VARIANCE) OR STRICT COMPLIANCE WITH THE ZONING ORDINANCE WOULD LEAVE THE PROPERTY OWNER WITH NO REASONABLE USE OF THE PROPERTY (USE VARIANCE) BECAUSE Roberts: A small garage is necessary to store property maintenance equipment. 11:04(f)9 is not applicable as published. Weis: Not being able to have some sort of storage structure to shelter maintenance equipment is a burden. Hoeft: He's only erecting a structure to provide storage for maintaining the property.
2. THE HARDSHIP OR NO REASONABLE USE **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE Roberts: There is no residence on the property. The residence is to be built in 2-3 years. Weis: This lot is a division of what once was a larger parcel. It has existing septic systems installed making it a unique challenge. Hoeft: This is part of a subdivided parcel. The existing septic systems which are not his are certainly a limitation.
3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE Roberts: The small, new building will not impact the neighbors or county highway. Weis: It has no affect on public safety. Hoeft: It is just off the highway, but there are no problems with the site lines.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Roberts

SECOND: Hoeft

VOTE: 3-0 (Roll call vote)

CONDITIONS OF APPROVAL: **The existing garden shed is to be removed.**

SIGNED:

 (Sm)
CHAIRPERSON

DATE: 06-09-2022

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

COPY

FINDINGS OF FACT

PETITION NO.: 2022 V1703
HEARING DATE: 06-09-2022

APPLICANT: Nathan & Nicole Meyer

PROPERTY OWNER: SAME

PARCEL (PIN) #: 026-0616-2014-004 (W1718 Bente Road)

TOWNSHIP: Town of Sullivan

INTENT OF PETITIONER: Allow for a reduced setback of 18' from a proposed deck to the rear property line 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:

- Property zoned A-3, Agricultural/Rural Residential (2.01 Ac)
- Section 11.07(f)8 requires 20' setback from rear lot line
- Requesting setback of 18' from rear lot line to proposed deck
- Sanitary Permit #permit #13304 -2017
- LU permit #62064-2017 for home with attached garage
- Town was in favor on 5/3/2022

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** 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 (AREA VARIANCE) OR STRICT COMPLIANCE WITH THE ZONING ORDINANCE WOULD LEAVE THE PROPERTY OWNER WITH NO REASONABLE USE OF THE PROPERTY (USE VARIANCE) BECAUSE Roberts: In case of fire and for general ingress/egress, a deck to grade is necessary. Weis: Ingress/egress at the rear of the house makes a deck necessary for general safety. Hoeft: This is the solution for placement of a deck which is needed to make the property safer.
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 Roberts: The house was placed too far back on the property. Weis: For some reason, the rear lot line was placed literally too close to the rear of the house. Hoeft: Their proposal is the safest solution to the poor placement of the house on the lot.
3. THE VARIANCE **WILL/WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE Roberts: The variance is away from the road & not near the neighbor's buildable lot. Weis: The setbacks otherwise for the deck are compliant to the house, septic & well. Hoeft: It does not impact the neighbors or Bente Road traffic. The town approved.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Roberts SECOND: Hoeft VOTE: 3-0 (Roll call vote)

CONDITIONS OF APPROVAL: **Deck to be set back 10' from the rear lot line.**

SIGNED: Dale Weis (sm) DATE: 06-09-2022
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

COPY

FINDINGS OF FACT

PETITION NO.: 2022 V1701
HEARING DATE: 06-09-2022

APPLICANT: Anna Cassidy

PROPERTY OWNER: Christopher James & Anna Marie Cassidy

PARCEL (PIN) #: 022-0613-0743-037 (N4126 Sleepy Hollow Rd)

TOWNSHIP: Town of Oakland

INTENT OF PETITIONER: Allow attaching an existing detached garage to the home at reduced road & rear setbacks and to exceed the alterations in excess of 50% of the structural members.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.09(a)(2), 11.09(c), 11.09(e) 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:

- Lot is zoned R-1, Residential-Sewered (0.32 Ac)
- Shoreland lot with some floodplain
- Section 11.09(e) 15' rear setback and 25' street setback for substandard lot
- Requesting 9' reduction for rear setback and 4' reduction for street setback
- Section 11.09(a)2 and 11.09(c) alterations/additions for existing non-conforming structures shall not exceed 50% of the structural members of the existing structure whether vertical or horizontal
- V415-89 for reduced front yard setback for substandard lots
- CU346-89 extensive on-site storage structure that is 28'x30' and 17' in height
- V759-95 for expansion of non-conforming structure in excess of 50% of fair market value
- LU permit #6201-1977 for home addition
- LU permit #26935-1989 for detached garage
- LU permit #40201-1995 for home addition
- LU permit #64671-2021 for egress window
- LU permit #64853-2022 1st floor remodel and partial roof replacement
- Town was in favor on 5/17/2022

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** 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 (AREA VARIANCE) OR STRICT COMPLIANCE WITH THE ZONING ORDINANCE WOULD LEAVE THE PROPERTY OWNER WITH NO REASONABLE USE OF THE PROPERTY (USE VARIANCE) BECAUSE Roberts: The existing garage structure could be converted to living space. The variance clears up the setbacks & other structural issues. Weis: The proposed modifications to the existing structure are reasonable. Hoeft: It would be burdensome to forgo the additional, useable space.
2. THE HARDSHIP OR NO REASONABLE USE **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE Roberts: It's a small lot with less than necessary setbacks that would justify the variance. Weis: This property is unique because of the previously built structure and other improvements. Hoeft: The parcel is where it is and was non-conforming when they bought it.
3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE Roberts: No additional structures will be constructed. Only the existing structures will be converted. There is no harm to the public or lake. Weis: There is no impact on the footprint or permeable surfaces of the property. Hoeft: There is no affect on the lake & it will not create any additional impervious surface.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Hoeft **SECOND:** Weis **VOTE:** 3-0 (Roll call vote)

APPROVAL OF: Front yard setback, rear yard setback, exceed 50% of the structural members, and expansion of a non-conforming structure >50%

SIGNED:  **CHAIRPERSON** **DATE:** 06-09-2022

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