

**JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT**

*Dale Weis, Chair; Janet Sayre Hoeft, Joann Larson*

**THE BOARD OF ADJUSTMENT WILL MEET ON THURSDAY, JULY 13, 2023 AT 10:30 A.M.** Members of the public may attend Via Zoom Videoconference **OR** at the Jefferson County Highway Department Committee Room, 1425 S Wisconsin Dr, 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://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-Highway Department Committee Room, 10:30 a.m.**

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

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

Members present: Weis, Hoeft, Larson

Members absent: -----

Staff: Brett Scherer, Laurie Miller, Mia Pollasky

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

Scherer acknowledged publication.

**4. Approval of the Agenda**

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

**5. Approval of May 25, 2023 Meeting Minutes**

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

NOTE: Larson abstained – was not present at the meeting.

6. **Communications**—Hoeft noted election of board members should be added to next month's agenda.

Larson attended a Board of Adjustment Training. There was discussion.

Weis provided a name (Steve Mache) as a consideration for a Board alternate.

7. **Public Comment**

Jeffrey Massey (W1273 South Shore Drive) was on Zoom and wanted to comment on petition being heard at the hearing today, and he also wanted to be on site when the Board did their site inspection. He was informed that no testimony could be taken outside of the hearing, but was welcome to join the hearing at 1:00 p.m.

8. **Site Inspections-Beginning at 10:45 a.m. & Leaving from Hwy Dept Committee Room**

V1726-23 – Penny Cerchio, W1275 South Shore Dr, Town of Palmyra, PIN 024-0516-3421-000

9. **Public Hearing Beginning at 1:00 p.m. in Hwy Dept Committee Room**

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

Members present: Weis, Hoeft, Larson

Members absent: -----

Staff: Brett Scherer, Sarah Elsner, Laurie Miller, Mia Pollasky

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, July 13, 2023 in the Jefferson County Highway Department Committee Room, 1425 S Wisconsin Drive, 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:

**V1726-23 – Penny A Cerchio:** Variance from Sec. 11.03(f)1 of the Jefferson County Zoning Ordinance to allow for a residential lot with reduced road frontage of 30 ft at **W1275 South Shore Dr**, PIN 024-0516-3421-000, in the Town of Palmyra.

John Kannard, Southwest Surveying, presented the petition for W1275 South Shore Drive. He stated the owner wanted to create a 4-acre lot. A variance was granted in 1984 to allow for access through the neighbor’s property (Massey) for the existing house. The access to this property was no issue and they would like to keep 30’ of the remaining frontage to create their own driveway if needed in the future. If they were required to have a 66’ access, there would be a hardship because the lot line would go through the existing barn which would then have to be torn down. Towards the road, there is a pitch-point on the proposed 4.0-acre lot so there would only be 32.6’ of width to the lot which would then need a variance for frontage/access for that lot if they would be required to maintain a 66’ frontage for the existing house lot.

Hoelt asked if by saying barn, he was referring to the old shed by the house. Kannard stated, no. Staff brought up the map to show the location of the barn. Larson noted they did not pull up into that driveway. Kannard stated you almost need to drive right up to it to see it because it is overgrown in that area. It had been used for housing horses. Hoelt asked what it was currently being used for. Kannard stated he did not believe it was currently being used. Jeff Massey confirmed that it is not used. Kannard stated a future owner may want to fix it up. It is hard to tell the condition of the barn because the area is all overgrown. Larson asked if the intent of the new owner was to tear the barn down or not. Kannard stated he did not know. It is not possible to maintain a 66’ access strip all the way back to the house because then there would only be 32.6 of frontage/access to the new lot which then would not meet the ordinance requirements either. By using a 30’ access, the barn would meet the setback and they would have plenty of width for the proposed lot. Hoelt noted this was based on the measurement of 30’, and asked Kannard to show where it could have 66’ of frontage. The Board referred to the map in the file and there was discussion. Hoelt noted 66’ frontage/access is indeed a possibility. Kannard stated they would then need a variance for the new lot. Weis noted that would then create a substandard frontage/access on the new lot. Kannard stated the goal with the 30’ frontage would allow for a

12' wide driveway so they have the option to put in their own driveway on their own property. They already have a variance for the access.

NOTE: Penny Cerchio (W1275 South Shore Drive) and Nanette Gleason (W1421 South Shore Drive) joined the hearing.

In favor was Jeff Massey (W1273 South Shore Drive) who appeared by Zoom. He stated the driveway has been shared since the 1980's and did not foresee them having to put in a new driveway. Stacy Massey (W1273 South Shore Drive) was also in favor and appeared by Zoom.

Terry Persicota, the owner's daughter, joined the hearing by Zoom. Sherer asked if she would like to state if she was for or against the petition. There was some problem with the connection. Weis noted that if we could get the connection, we would get her statement at that point and time.

There were no questions or comments in opposition of the petition.

Staff report was given by Elsner. She stated they were asking to split a previously created lot to create a new, 4-acre R-2 zoned, unsewered residential lot. The variance is a request from Sec. 11.03(f)1 of the Jefferson County Ordinance which states that all lots shall front on and have access to a public road for a minimum distance of at least 66'. They are asking to be allowed a reduced frontage of 30' off South Shore Drive. The lot that is being requested for a reduced frontage has a previous variance on file to waive the access requirement, and now they are asking for a reduced frontage requirement. This again is for the existing, established lot. If the new variance is granted, the new lot that is being created would have the 66' frontage and access if this is waived to allow the 30' of reduced frontage for the existing lot. There are previous permits on file for the home when it was built in 1976 along with the sanitary permit. The town approved the petition with no conditions.

Larson noted that in the previous variance from 1982, the town stated there would be no other splits be permitted, and the town now has approved the request. Elsner explained that this applied to A-3 zoned lots. There is a limit to the number of A-3 lots allowed, and an A-3 zoned lot cannot be further redivided. Their request is to now create an R-2 zoned lot which is a zone that is not dependent on a number for allowable splits. They are asking to create an R-2 zoned lot, not to divide an A-3 zoned lot. The variance request is for a reduced road frontage only. Larson asked why this was an R-2 zone when there are no other R-2 zoned lots in the area, and there are R-1 zoned areas with public sewer that this lot could be attached to. Elsner stated that is a question that would be addressed by the Planning and Zoning Committee during the rezoning process if it is better suited for an R-1 zone versus and R-2 zone. She stated that in that area and that side of the road, the sanitary district may not be able to serve the property.

Hoelt commented on the petitioner's response to question number one under unnecessary hardship which stated that if they did not get approval for the variance, they would not be able to split and sell the land. Elsner explained and stated they could require the 66' frontage for the existing lot but would then need a variance to allow a reduced frontage/access for the new lot.

Weis asked to be shown the present property lines on the map. Scherer explained. Hoeft asked if there was an actual road through the area that is overgrown. Kannard stated there is an old driveway that is overgrown. Larson noted the new owner would have to get an access permit from the township for a new driveway. Kannard stated there is an existing driveway there. If they wanted to use that one, they probably could. If they wanted to relocate the driveway, they would probably have to go to the township.

Weis asked if they ever explored getting additional land from the adjoining landowner (Massey) to help reduce the pinch-point. Stacy Massey stated the pinch-point was not on their side. It would be the neighbors on the other side. Weis further explained. Larson stated if the adjoining lot line could be moved over some, it would give them more frontage. Kannard stated they were dealing with what currently exists. There was further discussion.

Stacy Massey stated that they preferred not to do that, and further explained. She stated that if this was a no-go, they would be willing.

In favor was Terry Persicota, daughter, (99 Gorge Rd, Edgewater, New Jersey). She noted that over the years, she has lived at this property from time to time, and if there was any context as to why she is trying to divide the property, she would be more than happy to explain. Weis noted that the Board really did not need to know why but needed to consider what is being asked that needs the variance. Ms. Persicota stated that if it were still relevant, she could answer the question that was posed earlier about the R-1/R-2 decision. Scherer stated at this time, it really was not relevant for the Board of Adjustment. It would be more of the Planning & Zoning Committee. Weis stated that he felt the Board had everything they needed and told Ms. Persicota that if there was anything she heard that she wanted to add, she could.

Elsner noted the biggest thing to remember is the previous variance that already affects the frontage and access for the existing lot.

With no new information to add, Weis closed this part of the hearing. Stacy Massey stated that she wanted to be clear that if this was a no-go, they would be willing to move the frontage line over so Penny could do this.

**11. Discussion and Possible Action on Above Petitions @ 1:30 p.m. (See files and following pages.**

**12. Adjourn**

Weis made motion, seconded by Larson, motion carried 3-0 on a voice vote to adjourn @ 1:45 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](http://www.jeffersoncountywi.gov)

Drafted by: Laurie Miller, Zoning Assistant

Weis asked to be shown the present property lines on the map. Scherer explained. Hoeft asked if there was an actual road through the area that is overgrown. Kannard stated there is an old driveway that is overgrown. Larson noted the new owner would have to get an access permit from the township for a new driveway. Kannard stated there is an existing driveway there. If they wanted to use that one, they probably could. If they wanted to relocate the driveway, they would probably have to go to the township.

Weis asked if they ever explored getting additional land from the adjoining landowner (Massey) to help reduce the pinch-point. Stacy Massey stated the pinch-point was not on their side. It would be the neighbors on the other side. Weis further explained. Larson stated if the adjoining lot line could be moved over some, it would give them more frontage. Kannard stated they were dealing with what currently exists. There was further discussion.

Stacy Massey stated that they preferred not to do that, and further explained. She stated that if this was a no-go, they would be willing.

In favor was Terry Persicota, daughter, (99 Gorge Rd, Edgewater, New Jersey). She noted that over the years, she has lived at this property from time to time, and if there was any context as to why she is trying to divide the property, she would be more than happy to explain. Weis noted that the Board really did not need to know why but needed to consider what is being asked that needs the variance. Ms. Persicota stated that if it were still relevant, she could answer the question that was posed earlier about the R-1/R-2 decision. Scherer stated at this time, it really was not relevant for the Board of Adjustment. It would be more of the Planning & Zoning Committee. Weis stated that he felt the Board had everything they needed and told Ms. Persicota that if there was anything she heard that she wanted to add, she could.

Elsner noted the biggest thing to remember is the previous variance that already affects the frontage and access for the existing lot.

With no new information to add, Weis closed this part of the hearing. Stacy Massey stated that she wanted to be clear that if this was a no-go, they would be willing to move the frontage line over so Penny could do this.

**11. Discussion and Possible Action on Above Petitions @ 1:30 p.m. (See files and following pages.**

**12. Adjourn**

Weis made motion, seconded by Larson, motion carried 3-0 on a voice vote to adjourn @ 1:45 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](http://www.jeffersoncountywi.gov)



DECISION OF THE ZONING BOARD OF ADJUSTMENT  
JEFFERSON COUNTY, WISCONSIN

**COPY**

**FINDINGS OF FACT**

PETITION NO.: 2023 V1726  
HEARING DATE: 07-13-2023

APPLICANT: Penny Cerchio

PROPERTY OWNER: SAME

PARCEL (PIN) #: 024-0516-3421-000 (W1275 South Shore Drive)

TOWNSHIP: Palmyra

INTENT OF PETITIONER: Reduce the required minimum frontage required on a public road as a result of rezoning.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.03(f)1 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 (9.902-ac)
- Proposal to split lot and create new 4-ac R-2, Residential-Unsewered lot
- Sec. 11.03(f)1 – All lots shall front on and have access to a public road for a minimum distance of at least sixty-six (66) feet
- Variance request is to allow for reduced frontage distance of 30 feet off South Shore Dr for the proposed R-2 lot
- R630A-82 to create A-3 lot
- V135-84 to wave 66 feet of access off Blue Spring Lake Rd to two A-3 lots and additional 26 acres
- LU Permit #5496-1976 for new home
- Sanitary Permit #3270-1976
- Town approved with no conditions on 6/12/2023

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

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

