

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

Dale Weis, Chair; Janet Sayre Hoeft, Joanne Larson

THE BOARD OF ADJUSTMENT WILL MEET ON THURSDAY, AUGUST 10, 2023, AT 11:00 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 11:15 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, 11:00 a.m.

Meeting called to order @ 11:00 a.m. by Weis

2. Roll Call (Establish a Quorum)

Members present: Weis, Hoeft, Larson

Members absent: -----

Staff: Brett Sherer, Laurie Miller

3. Certification of Compliance with Open Meetings Law

Scherer acknowledged publication.

4. Approval of the Agenda

Hoeft made motion, seconded by Larson, motion carried 3-0 to approve.

5. Approval of July 14, 2023, Meeting Minutes

Weis made motion, seconded by Larson, motion carried 3-0 to approve.

6. Communications

Hoeft questioned the elections and an appointment for the second alternate. Sherer stated that Matt would be available in the afternoon session to address those questions.

7. Public Comment - None

8. Site Inspection – Beginning at 11:15 a.m. and Leaving from Hwy Dept Committee Room

V1727-23 – Kyle and Meghan Magritz, N3237 County Road G, Town of Oakland

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

Meeting called to order @ 1:03 p.m. by Weis

Members present: Weis, Hoeft, Larson

Members absent: -----

Staff: Matt Zangl, Sarah Elsner, 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, August 10, 2023, in the Jefferson County Highway Department Committee Room, 1425 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:

V1727-23 – Kyle & Meghan Magritz: Variance from Sec. 11.04(f)6 of the Jefferson County Zoning Ordinance to approve a deck 12 feet from the rear lot line in an A-1, Agricultural zone. The site is in the Town of Oakland at **N3237 County Road G** on PIN 022-0613-2511-003 (1.303 ac).

Meghan Magritz (N3237 County Road G) presented the petition. She stated the existing concrete was broken and a hazard. They want to go over the area with the deck. The lot line is at a harsh angle. They spoke with the cemetery and the wooded area owned by Dave Ward, and they had no issues with the proposed deck.

There were no questions or comments in favor or 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 Elsner. The property is zoned A-1 and is a 1.393-acre parcel. Section 11:04(6) of the Jefferson County Zoning Ordinance requires a 20’ setback to the lot line. They are asking for a 12’ setback for the deck. There was a septic permit issued in 2015 and a land use permit in 2011 for a detached garage. The town approved the petition without conditions. The deck is being proposed on the back of the house and towards the cemetery.

There were no questions from the Board.

V1726-23 – Penny A Cerchio: Variance from Sec. 11.03(f)1 of the Jefferson County Zoning Ordinance to allow creation of a residential lot with reduced road frontage of 30 ft at **W1275 South Shore Dr**, PIN 024-0516-3421-000 (9.902 ac), in the Town of Palmyra.

Hoefl made motion and was seconded by Larson to take the motion off the table from the July 13, 2023, meeting. Motion carried 3-0.

Heather Henry, Real Estate Agent for Cerchio, wanted to review a few things from the previous hearing regarding the purchasing of additional land or to remove the existing barn.

They have talked the neighbors (Massey) about buying additional land from them; however, they cannot do it at this time as it would put them in a hardship for what they can do with their property. The Massey's are 100% in favor of the petition. She noted that she has a letter from them, and they have no problem with continued use of the access easement.

The existing barn is in good condition and is currently hooked up to electric. The potential buyer who lives on the lake would like to keep the barn and build a home for their family to stay when they come to visit. Tearing down the barn is not an option.

Weis noted that they did not see the barn on their site visit and further explained. He had the impression from the first meeting that the barn was not in good condition. Ms. Henry stated it was a beautiful barn and tearing it down would be a hardship for the sale of the lot and the cost of tearing it down. The new buyers would like to keep it. John Kannard explained there is still electricity going to the barn, and he showed pictures of the barn.

Zangl noted this was an existing A-3 zoned lot that was created in the 1980's. After it was created, a variance was approved to allow access through the neighbor's lot. Today, they want to create a lot leaving a remnant lot that would utilize the existing access by easement with a request for reduced frontage. All the options have been evaluated, and he asked if there were any additional comments or documentation to be presented.

Ms. Henry stated that even though they would not have the required 66' frontage, there would be nothing that would change with the lot. The new lot has the required frontage, and no one is affected in any way in terms of the variance.

John Kannard (W1065 County Road CI) noted the current access is through the Massey's parcel with a 1984 variance, and he explained the driveway. He stated they will continue to use that access. They need frontage so they can have access, but they have access by easement approved by a variance. The issue is the frontage. They met with the Masseys proposing a transfer of land so the 66' frontage could be met. They (the Masseys) felt transferring any land would limit their development in the future and would like to keep all the options they have. The hardship is the location of the barn. It is not falling down though it is overgrown around it, and it needs to be cleaned up. The barn is useable. Weis asked if the barn would meet the legal setbacks from the new lot lines. Kannard stated that it would if they went with a 33' access to the remnant lot.

Terry Persico (99 Gorge Road, Edgewater, NJ – appearing on Zoom) stated her parents purchased the property 48 years ago. The division of the property was done by the previous owner. The existing access easement was put in place when they bought the property. There has been no change in 48 years, and there will be no change to the property with the proposed. The proposed 4-acre lot has its own access. The barn is in good shape and has electric. The remaining lot would have a reduced frontage, but the access by easement would be the same.

Jeff Massey (W1273 South Shore Drive – appearing on Zoom) stated they were in full support of this request. They met with Mr. Kannard and decided it was best for them not to sell any land.

Laura (W301 Snoden, Genesee) was present on Zoom, and noted she was the realtor representing the buyers of the vacant land.

Larson noted with the zoning change, it was her understanding that no other A-3 splits would be allowed. Zangl stated that an A-3 zone cannot be further redivided; however, this is not an A-3 area. There are other R-1 zones in the area, and an R-2 zone was approved by the Planning & Zoning Committee. Larson stated that this would allow more splits. Zangl noted that it would be challenging and there was discussion. Could they – yes. Would it actually occur – probably not. Larson asked about Palmyra's plan for development. Zangl stated the south side is mainly Natural Resource and DNR land. The density there is where it is going to be.

Weis clarified that the existing lot has an approved variance for easement to use the existing driveway. Zangl stated that was correct. Weis asked why there was not 66' for the new parcel. Zangl stated the new parcel meets the 66' frontage and will meet all the ordinance requirements. He further explained. Weis asked where the 30' frontage would be. Zangl stated it was for the current house. Weis noted that this parcel has a legal, effective easement for access, but they do not have the frontage with splitting the land. Larson stated that they could ask for a 33' access and then possibly have a 33' easement on the new lot. Just in case, that would give them the 66', and asked Kannard if that was a possibility. Kannard stated probably not because the easement would have to go through the barn. Larson stated that it would just be an easement because there is already the recorded easement for access. Zangl explained and stated it would be for access down the road if needed. He stated they could work around the barn. Kannard stated that he looked at it as one driveway for one residence and asked if a 66' wide driveway really needed. He felt that a driveway would be 12' to 15' wide at most.

Terry Persico confirmed them having an existing driveway by easement. Zangl explained they may have a current easement, but down the road, what options exist to avoid potential conflicts in the future. That would be to reserve an area for access with an easement on this new lot. Ms. Persico questioned the need for 66'. Zangl explained and asked Kannard what the setback was from the barn to the current lot line. Kannard stated it was 55'. Zangl explained the reserve area of easement. Terry Persico asked if the easement could be in place with the barn remaining there. Zangl explained and stated it would be an area that the new buyer could not build in because it is being reserved for any future driveway. Ms. Persico stated she understood that it is there as an option. Zangl stated that there is not anything that needs to be done, but it would be a reserve area in case the future owner of the property needs to utilize it for a driveway. Kannard asked if it would have to continue all the way to

the back of the property. Zangl explained. Hoeft commented that this may be the only solution. Ms. Persico made comment about the proposed easement. Kannard asked why there is a 66' frontage requirement, and where that came from, and made further comment. Zangl stated that it is the town road dimension and that it has been an ordinance requirement since the 1970's.

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

12. Adjourn

Hoeft made motion, seconded by Larson, motion carried 3-0 on a voice vote to adjourn @ 2:09 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.: 2023 V1727
HEARING DATE: 08-10-2023

APPLICANT: Kyle Magritz

PROPERTY OWNER: Kyle A & Meghan T Magritz

PARCEL (PIN) #: 022-0613-2511-003 (N3237 County Road G)

TOWNSHIP: Oakland

INTENT OF PETITIONER: Allow a deck addition at a reduce side-yard setback

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f)6 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-1, Exclusive Agricultural (1.393-Ac)
- Sec. 11.04(f)6 requires 20' setback from structure to side lot line
- Variance request is to allow for a deck addition at a reduced side yard setback of 12'
- Septic permit #13002 - 2015
- LU permit #59033 - 2011 for detached garage
- CU1612 - 2010 to bring existing cemetery into conformance and allow additions to it of 0.7-Ac to the west and 1.8-Ac with the existing house to the east
- Town approved 7/18/2023 with no conditions

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

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

DECISION OF THE ZONING BOARD OF ADJUSTMENT
JEFFERSON COUNTY, WISCONSIN

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FINDINGS OF FACT

PETITION NO.: 2023 V1726
HEARING DATE: 08-10-2023

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
- Blue Spring Lake Management District confirmed that property is not eligible to tie into the BSLMD sewer system
- Planning & Zoning committee approved rezone requested conditioned upon variance decision

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

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

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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 Weis: Without the variance, it is not possible to create a 66' frontage for both proposed lots. Larson: The current property is zoned A-3 and will change the zoning to R-2. The variance is needed for the road frontage. Hoeft: To adhere to the 66' frontage requirement would be unnecessarily burdensome.
- 2. THE HARDSHIP OR NO REASONABLE USE **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE Weis: There is a hardship because of a previously approved variance and physical limitations. Larson: Without the variance, the barn placement would come into play under the current setbacks. Hoeft: The parcels were created as they were, not by the applicant.
- 3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE Weis: The variance allows for access to both parcels through easement. Larson: With the variance, the spirit of 66' frontage will be in place. Hoeft: It will not be contrary once the condition specified by the Board is in place.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Larson **SECOND:** Weis **MOTION:** 3-0 (roll call vote)

CONDITIONS OF APPROVAL: The remnant parcel shall have 33' of frontage along with an easement of 33' on the proposed lot to keep in the spirit of the ordinance. The 33' easement may be reduced around the barn area.

SIGNED:  DATE: 08-10-2023
CHAIRPERSON

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