

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

Dale Weis, Chair; Janet Sayre Hoeft, Joann Larson

The Board of Adjustment will meet on **Thursday, September 14, 2023, at 10:30 a.m.** Members of the public may attend at Woolen Mills, 222 Wisconsin Drive, Jefferson, WI.

The Board of Adjustment will leave for site inspections from Woolen Mills, 222 Wisconsin Drive at 10:45 a.m.

Petitioners or their representatives must be in attendance for the public hearing at 1:00 p.m. in the Jefferson County Highway Department committee room, 1425 Wisconsin Drive, Jefferson, WI. 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-Woolen Mills, 10:30 a.m.

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

2. Roll Call (Establish a Quorum)

Members present: Hoeft, Larson, Weis

Members absent: -----

Staff: Brett Scherer, 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 on a voice vote to approve.

5. Approval of August 10, 2023, Meeting Minutes

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

6. Communications - None

7. Public Comment - None

8. Site Inspection – Beginning at 10:45 a.m. and Leaving from Woolen Mills

V1728-23 - James & Dara Dietmeyer, N1107 Vinne Ha Ha, Town of Koshkonong on PIN 016-0513-2431-025 (0.2 ac)

V1729-23 - Steven Proud, W8571 East Lake Drive, Town of Sumner on PIN 028-0513-1611-029 (0.26 ac)

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

Meeting called to order @ 1:02 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, September 14, 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:

V1728A-23 – James & Dara Dietmeyer: Variance from Sec 11.07(b) and 11.09(e) of the Jefferson County Zoning Ordinance to allow garage placement at less than the required road and side yard setback. The site is at **N1007 Vinne Ha Ha Rd** in the Town of Koshkonong on PIN 016-0513-2431-025 (0.2 ac) in a Residential R-2 zone.

James & Dara Dietmeyer (N1007 Vinnie Ha Ha Road) presented their petition. James stated they are looking to construct a two-car garage. Instead of a setback of 25’, they are asking for a 20’ setback which is from the front lot line. They will be 37’ from the edge of the road to the front of the garage. Dara explained the property line starts at 16.5’ from the edge of the road. She showed the Board pictures and explained. James noted he knew the snow line where they would push the snow, and the garage would be about 37’ from the road. James stated the garage would be 20’ from the stake. Weis asked if the property line was where there was a marker and where the property starts. James stated yes, presented a site map, and further explained. Zangl asked if they had the setbacks from the centerline or ROW setbacks. Elsner stated they were proposing a 19’ setback from the overhang and 20’ from the structure.

Weis asked how far they were proposing to be to the property line. Dara stated the foundation would be at a 3’ setback from the side lot and from the overhang, it would be 1.8’. They cannot move the garage back further because of the location of the holding tank. Weis asked what the setback was from the holding tank. James stated it was 7.2’. Weis asked if that was to the center of the round cover or the tank itself. James stated it was to the center of the cover. Larson questioned the size of the tank. Weis noted the setback would need to be measured from the foundation of the garage to the tank itself, not just the manhole. Elsner noted they had a 2,000-gallon Dalmaray tank and showed the Board the inspection report from the sanitary permit. She stated she could look up the specs to see how far from the tank that would be roughly. Dara explained the garage will go in front of the tank so it would be 7.5’. Weis explained that the setback from the tank needed to be 5’ from the foundation of the garage or they would have to get a variance. They could pull the cover from the tank, and they should be able to see where the corners of the tank are.

Pat Anderson, 411 Walton Court, asked if the petition could be approved with the condition they meet the setback to the tank. They may have to increase the setback to the road. Weis explained they have to maintain the required distance established at the time of inspection. Anderson asked if hypothetically, could the approval be based on meeting the setback. Zangl stated that unintentionally, it could place the structure closer to the road which is what the Board was working on trying to determine. They do not want to approve something that would be closer to the road when they may not want it closer. Elser noted the tank is 6.5' so 3.25' would be exact center to the tank cover. Mr. Anderson stated it was mentioned the setback is usually measured from the overhang. Zangl made correction and stated the setback is measured from the closest part of the structure.

Weis asked for the location of the well. Dara stated it was on the other side, and it was shown on the site plan. Weis noted it was located on the south side of the house.

Elsner gave staff report. The property is zoned R-2 and is a .2-acre lot. They are requesting a reduced setback from the road ROW and side lot line from the proposed detached garage. Section 11.07(b) requires a 3' setback to the lot line and they are requesting a 1.8' setback from the overhang of the structure to the side lot line. Section 11.09(e) requires a 25' setback from the street lot line. They are proposing a 20' setback, but it will be 19' from the overhang. There was a land use permit issued for the home in 1996 and there was a permit for a home addition in 2021. There is also a sanitary permit on file from 1996. The town approved the petition.

Hoefl asked if the shed in the front would remain. Dara stated yes, and the one in the back would be removed. Hoefl asked if there was a permit on file for that shed. Elsner stated no. Elsner stated the shed is very old. Larson noted that the shed was not on the 2018 aerial photo and asked the petitioners if they put up the shed. They stated they did not. It was there when they bought the house in 2013. Elsner stated it was there in 2004/2005 based on the aerial photos. Elsner she referred to the extra structure on the property and stated they were limited to two detached structures. The land use permit, if this would be approved, would be conditioned on the removal of one shed and any impervious surface they would have to take care of for being a shoreland lot.

There was a town decision in the file to approve the petition which was read into the record by Weis. Elsner added that there was a greater than 20% slope in the back of the property as well as floodplain. There were no questions or comments in favor or opposition of the petition.

V1729-23 – Steven Proud: Variance from Sec 11.09(e) of the Jefferson County Zoning to allow garage placement at less than the required road setback. The site is at **W8571 East Lake Drive** in the Town of Sumner on PIN 028-0513-1611-029 (0.26 ac) in a Residential R-2 zone.

Steven E Proud (W8571 East Lake Drive) presented his petition. He stated he was looking to construct a 15'x34' garage. The setback from the proposed 2-car garage to edge of the road is 26'. There are properties to the south of this property where two garages are at 23.9' to the edge of the road. If he were allowed a setback of 25' to the edge of the road, they could get both cars in the garage. Weis asked if this was how his petition was stated. The petitioner noted his petition was stated as 15'x34, but after measuring, he was requesting to increase the square footage of the garage to a proposed 15'x35'.

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

Weis asked for the location of the well. The petitioner stated it was on the south side of the lot. The proposed garage will be on the north side of the property, and 4' from the property line. He has 2 holding tanks and will be 6' from the edge of the tank. Larson asked if that was from the center of the cover. The petitioner stated no, it was from the edge. Weis noted the garage needs to be 5' from the tank that is buried in the ground. The petitioner stated he was 6' away from the tanks. Weis asked for the size of the tanks. The petitioner stated there are 2-1,500-gallon holding tanks. Weis noted they are not round tanks but rectangular. Zangl asked if they were asking to widen the garage. The petitioner stated he was trying to go deeper. There was a discussion on the measurement to the holding tank. Zangl stated if the petitioner could not meet the setback, he would need to get a variance from DSPS which could be a condition of an approval.

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. She stated the property is zoned R-2 and is a .26-acre substandard lot. The request is to reduce the road setbacks to a proposed detached garage. Section 11.09(e) requires 25' setback to the ROW. Originally it was being requested to be at a setback of 26' to the edge of the road, and he was now asking for an extra foot for it to be at 25'. They originally were asking for an 8.8' setback from the ROW, but he is now asking for another foot which would be at a 7.8' setback. There was a Land Use Permit issued for the home in 1990, and there was also a sanitary permit for a holding tank in 1990. There is the 100-year floodplain on the back side of the home towards the lake. The town approved the petition. Zoning does not have any setbacks from structure to structure, but the building inspector does. The way it is proposed right now, there is a 5' separation from the house to the garage so he cannot move it any further back. Larson asked if this measurement was from the overhang to overhang. Zangl asked the petitioner if this measurement was from the wall. The petitioner stated it was.

Elsner noted DNR was noticed, but there was no response.

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

12. Adjourn

Hoeft made motion, seconded by Weis, motion carried 3-0 on a voice vote to adjourn @ 1:56 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

FINDINGS OF FACT

PETITION NO.: 2023 V1729
HEARING DATE: 09-14-2023

APPLICANT: Steven E Proud

PROPERTY OWNER: SAME

PARCEL (PIN) #: 028-0513-1611-029 (W8571 E Lake Drive)

TOWNSHIP: Town of Sumner

INTENT OF PETITIONER: Allow a reduced road setback for a proposed detached garage.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 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:

- Property is zoned R-2, Residential-Unsewered (0.26-Ac)
- Request is to allow for reduced road setbacks to proposed detached garage
- Sec. 11.09(e) requires 25' setback from street lot line to any structures
- Request to allow for 8.8' setback from road right-of-way
- Land use permit #28904 – 1990 for home
- Sanitary permit #7370 – 1990 for holding tank
- 100-yr floodplain located on back side of home
- Town approved 8/14/2023

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:

- 4. 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: The garage is necessary and because of the lot width restriction. Hoeft: This property is not unique to the properties in the area. We generally conclude the applicants are entitled to a garage. Larson: Because of the lot size and dimensions.

- 5. THE HARDSHIP OR NO REASONABLE USE **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE Weis: The placement of the existing holding tank and the width of the lot creates the hardship. Hoeft: They cannot go any closer to the house because there has to be 5' between the structures. Larson: Because of the placement of the holding tank and other structures, and because it is a narrow lot.

- 6. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE Weis: The garage placement has no effect on public safety. Hoeft: As long as the condition is met. There is no problem with site lines or access to plowing. Larson: most people want a garage. It is a dead-end road and there is not much traffic or homes.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS GRANTED.

MOTION: Weis **SECOND:** Hoeft **VOTE:** 3-0 (roll call vote)
CONDITIONS OF APPROVAL: **The owner is to verify that the setback to the in-ground tank to the garage is 5'**
MOTION: Weis **SECOND:** Hoeft **VOTE:** 3-0 (roll call vote)
CONDITIONS OF APPROVAL: **Will allow the setback to the right-of way to be 7.8'.**

SIGNED: Dale Hoelt (dm) DATE: 09-14-2023
 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.: 2023 V1729
HEARING DATE: 09-14-2023

APPLICANT: James M & Dara W Dietmeyer

PROPERTY OWNER: SAME

PARCEL (PIN) #: 016-0513-2431-025 (N1007 Vinnie Ha Ha Road)

TOWNSHIP: Town of Koshkonong

INTENT OF PETITIONER: Allow for a reduced road ROW and side-yard setback for a proposed detached garage.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.07(b) & 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:

- Property zoned R-2, Residential-Unsewered (0.20-Ac)
- Request is to allow for reduced setback from road right-of-way and side lot line from proposed detached garage
- Sec. 11.07(b) requires 3' setback from detached accessory structures to any lot line
 - Request is to allow for 1.8' setback from overhang of structure to side lot line
- Sec. 11.09(e) requires 25' setback from street lot line to any structures
 - Request is to allow for a 20' setback from structure to right-of-way
- Land use permit #42373 – 1996 for home
- Land use permit #64416 – 2021 for home addition
- Sanitary permit #9387 – 1996 for holding tank
- Town approved 8/10/2023

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 Weis: Literal enforcement would prevent them from being able to put a proper garage at the setback. Hoeft: No garage would be unnecessarily burdensome. Larson: Because of the lot size and property's physical characteristics. Most people want a garage.
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: The property is unique in that the lot is narrow and there are structures on the property. Hoeft: There are narrow lots in the area where the homes are close together. There is no other place to put a garage and traditionally, we conclude that everyone is entitled to a garage. Larson: It is a narrow lot and most lots in the area are narrow. The lot with the house slopes toward the lake. The placement of the holding tank limits the area for a garage.
3. THE VARIANCE WILL NOT BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE Weis: This structure will not affect any traffic or visibility on the road. Hoeft: There is no problem with the site lines or accessibility for plowing. Larson: There are other properties along Vinnie Ha Ha Road that have the same lot issues.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS GRANTED.

MOTION: Hoeft SECOND: Larson VOTE: 3-0 (roll call vote)

CONDITIONS OF APPROVAL: The setback needs to be verified from the foundation of the building to the holding tank.

SIGNED: Dale Weis (Sm) DATE: 09-14-2023
 CHAIRPERSON

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