

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

Dale Weis, Chair; Janet Sayre Hoeft, Joann Larson

THE BOARD OF ADJUSTMENT WILL MEET ON THURSDAY, NOVEMBER 9 AT 1:00 P.M. IN THE JEFFERSON COUNTY COURTHOUSE, ROOM C1021, 311 S. CENTER AVE., JEFFERSON, WI. Members of the public may attend Via Zoom Videoconference **OR** at the Jefferson County Courthouse, Room C1021.

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

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-Jefferson County Courthouse Room C1021, 1:00 p.m.

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

2. Roll Call (Establish a Quorum)

Members present: Weis, Hoeft, Larson

Members absent: ---

Staff: Matt Zangl, Sarah Elsner, Laurie Miller

3. Certification of Compliance with Open Meetings Law

Hoeft and Zangl acknowledged publication.

4. Approval of the Agenda

Hoeft made motion, seconded by Larson, motion carried 3-0 on a voice vote to approve with a correction to the address for the petition to N1007 Vinnie Ha Ha Road.

5. Approval of October 12, 2023 Meeting Minutes

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

6. **Communications** – Weis noted that Hoeft was going to be gone in May 2024, and asked if any progress has been made in appointing an alternate. Zangl that there is one alternate appointment, and he has the name of one other but has not contacted them yet. Weis noted that Hoeft will no longer be here at all starting in July 2024.

7. **Public Comment** - None

8. **Public Hearing Beginning at 1:00 p.m. in Room C1021. 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, November 9, 2023 in Room C1021 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:

V1728-23 – 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 and Dara Dietmeyer were present.

Sarah Elsner explained the previous variance was granted for a reduced setback to the side yard and to the ROW for a garage placement on the north end of their lot. The owners were met at the site for the location of the septic which was no issue. However, since that time, they found out the area they were placing the garage was also the location of the utility lines. It is inconvenient to consider moving those lines, so they are now proposing to move the structure.

The back of the property has too much of a slope to the lake to place a structure. They are now proposing the garage at the southeast corner of the lot. This will get them away from the utility lines, and this location will not be increasing the impervious surface by much because they are going over the existing driveway. They will also be removing a shed.

The side setback is required to be at a minimum of 3' and they are asking for a 5' setback from the foundation. With the overhang, they would be at 4'. They are also asking a reduced setback from the ROW of 4' from the overhang and 5' from the foundation. They would still be about 20' from the edge of the road and 30' from the centerline.

The Town of Koshkonong met staff and the property owners on site, and they are fine with the new proposal so they would not require them to come back through the town for review. This site is further away from the septic.

Zangl noted there was no where else to put the gas or electric lines and moving the gas line was next to impossible. Weis noted that it would not be proper or legal to build over those lines.

Hoeft asked staff about the impervious surface. Elsner stated there was about a .2 increase, so basically there really is not any. Zangl noted it was a 21 square foot increase.

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

10. Discussion and Possible Action on Above Petitions @ 1:13 p.m. (See following pages & files)

11. Adjourn

Hoeft made motion, seconded by Weis, motion carried 3-0 on voice vote to adjourn @ 1:20 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

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FINDINGS OF FACT

PETITION NO.: 2023 V1729

HEARING DATE: 11-09-2023

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 setback from the road right-of-way to a proposed detached garage.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.09(g) 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)
- Original request was to allow for reduced setback of 20' from road right-of-way and 1.8' setback from side lot line from proposed detached garage
- New request was submitted due to issues with the original proposed location going over utility lines in the yard and too much of an increase in impervious surface
- Sec. 11.09(g) requires 25' setback from street lot line to any structures
- Request is now to allow for a 4' setback from structure (from overhang) to right-of-way
- Proposed structure also going over existing driveway so very minimal increase in overall impervious surface
- Land use permit #42373 – 1996 for home
- Land use permit #64416 – 2021 for home addition
- Sanitary permit #9387 – 1996 for holding tank
- Town approved original request 8/10/2023
- Town was fine with new setback proposal and stated there was no need for any further action from Koshkonong

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

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

DECISION STANDARDS

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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 Hoeft: To move the utilities would be unnecessarily burdensome. Weis: Not allowing the garage would be a hardship. Larson: It would be unnecessarily burdensome because of the lot size and 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 Hoeft: Placing the garage on the lakeside is not possible and the road is where it is. Weis: The size of the lot and the previously installed improvements cause the hardship. Larson: The lot is narrow and there is a slope on the lakeside.
- 3. THE VARIANCE WILL NOT BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE Hoeft: The side setback meets the requirement, the impervious surface increases only slightly, and it is further away from the septic. Weis: The setback is consistent with other structures on this road. Larson: Most neighbors have similar 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:

SIGNED: Dale Weis (Sm) DATE: 11-9-2023
CHAIRPERSON

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