

# ***JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT***

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

The Board of Adjustment will meet on **Thursday, December 14, 2023 at 10:00 a.m.** Members of the public may attend at the Jefferson County Courthouse, Room C1049, 311 S Center Ave, Jefferson, WI

The Board of Adjustment will leave for site inspections from Room C1049 at 10:30 a.m.

**Petitioners or their representatives must be in attendance for the public hearing at 1:00 p.m.** in Courthouse Room C1049. 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-Jefferson County Courthouse Room C1049

Meeting called to order at 10:03 a.m. by Weis

2. Roll Call (Establish a Quorum)

Members present: Weis, Hoeft, Larson

Members absent: -----

Staff: Matt Zangl, Laurie Miller

3. Certification of Compliance with Open Meetings Law

Staff presented proof of publication.

4. Approval of the Agenda

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

5. Approval of November 9, 2023, Meeting Minutes

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

6. Communications - None

7. Public Comment - None

8. Site Inspection – Beginning at 10:30 a.m. and Leaving from Courthouse Room C1049

V1733-23 – Philip Manley/Lake Lane Trust Property, N6706 Lake Ln, Town of Lake Mills, PIN 018-0713-1041-002 (0.39 ac)

V1734-23–Lynn Halbur, W797 State Road 59, Town of Palmyra, PIN 024-0516-2324-001

8. Public Hearing Beginning at 1:00 p.m. in Courthouse Room C1049

Members present: Weis, Hoeft, Larson

Members absent: ----

Staff: Matt Zangl, Sarah Elsner, Laurie Miller

9. 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, December 14, 2023 in the Jefferson County Courthouse Room C1049. 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:

**V1733-23 – Philip Manley/Lake Lane Trust Property:** Variance from Sec. 11.10(f)1 of the Jefferson County Zoning Ordinance to allow a deck addition at less than the required setback to the ordinary high-water mark of Rock Lake. The site is in the Town of Lake Mills in a Residential R-1 zone at N6706 Lake Ln, on PIN 018-0713-1041-002 (0.39 ac).

Philip Manley, contractor, presented the petition. He noted the home is built on a hill with a slope to the lake. The deck will allow access to the home facing the lake. Weis asked if it would be a deck structure. The petitioner state yes, the deck will be over a paver patio which has a permeable surface. This will not affect the groundwater. Weis asked if this was a standard sized deck. The petitioner stated yes. Weis noted they were on site and saw the pavers.

Larson asked if they would be installing a rain garden. The petitioner stated they would be happy to do that. The front of the lot is steep, and the house is elevated above the surface of the lake. Hoeft asked how close they were to the lake. The petitioner stated the closest point would be 64' from the ordinary high-water mark. Hoeft asked for the square footage of the deck. The petitioner stated it is 392 square feet. Weis asked about doing setback averaging. Elsner stated they already did when they built the house, and she explained the setback average would at a 71' setback.

Larson asked if there would be a roof over the deck and access to the ground level. The petitioner stated no, and the access would be at ground level – there will be no staircase. Larson asked when the house was built. The petitioner stated it was in the early 90's.

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 was zoned R-1 and was a .39-acre lot. Section 11.10(f)1 requires a 75' setback from the nearest point of the structure to the ordinary high-water mark. The setback averaging when the house was built allows for a 71' setback. They are asking for a 64' setback from the proposed deck to the ordinary high-water mark. There is a land use permit in the file for the home from 2000. If approved, impervious surface calculations and possible mitigation will be required. The town approved the petition with no conditions. The setback difference would be 7'.

Hoeft questioned the limitation of 200 square feet for a deck. Zangl explained that the ordinance allows for non-conforming structures to do a 200 square foot or less deck without a variance if they did a mitigation plan.

Weis noted the DNR was noticed and there was no response. Hoeft asked about a vegetative buffer plan and affidavit. Zangl explained the affidavit would be required if they did mitigation which is a document that is recorded.

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

**V1734-23 – Lynn Halbur:** Variance from Sec. 11.07(d) of the Jefferson County Zoning Ordinance to allow two storage boxes at less than the required setback to State Road 59 centerline and road right-of-way. The property is in the Town of Palmyra in an A-1, Agricultural zone at W797 State Road 59, on PIN 024-0516-2324-001 (1.544 ac).

Lynn Halbur (1307 Summerset Dr, Racine) and her son Joshua Christianson (1307 Summerset Dr, Racine) were present. Joshua stated they want two storage boxes to get everything out of the house so they can fix it up and make it livable. It is currently a 3-season cottage built in the early 1900's.

Weis asked for the size of the storage boxes. Joshua stated they would be 8'x40' for each one. Weis asked if they would be set on the ground and temporary. The petitioner stated yes, they are like pods. Weis asked if they would be reused when rebuilding the home. Lynn stated they were hoping to use them and further explained. Weis noted there are regulations for the placement of the structure and some floodplain on the property. Lynn stated that this was just the start. Weis asked how long is temporary. Joshua stated they are hoping to have it done within 5 years. Lynn stated because of all the steps they have to take and because they do not live there, the work will be done on the weekends and when they have vacation time.

Weis asked about the well and septic. Lynn stated there is a well, but there is no septic on the property. There is an outhouse that is grandfathered in. Larson asked if the outhouse was the only septic. Lynn stated they rent a porta-potty.

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

Weis commented about the existing cottage being too close to the highway. Joshua stated it was and there is also floodplain on the property. Lynn stated they need to empty the cottage which is the first step. Hoeft noted the town approved their petition with the condition of the units being there for only 2 years. She stated she was inclined to agree with the town because they have a lot to work out. She further explained. Joshua stated they were hoping to get it longer. There is a highway project coming up and that is why they put a time limit on the request. He further explained.

Staff report was given by Elsner. She stated the property is zone A-1 and is a 1.544-acre parcel. Sec. 11.07(b) requires a 140' to the centerline of the road and 70' to the right-of-way. They are asking to be at 68' from the centerline and 45' to the right-of-way. There are no land

use or sanitary permits on file. The Highway Department had no issues at this time. The town approved the petition with conditions.

Zangl asked the petitioner to explain their process and how they envision this going in the next few years. Joshua stated there was a lot to find out such as the septic and the structures used in rebuilding the house. Zangl noted that he had concerns about how long temporary was. Joshua explained he understood there was a lot to do and determine what they would or would not be able to do. He further explained. Zangl stated that one of the concerns that there could be is that the structures would be placed there, the cottage is taken down, and then it stops at that point. The house is not built, and the property is left with the storage structures. Lynn explained that they cannot tear the house down until they find out what they can do. So can they rebuild, or would they have to remodel. Zangl asked the petitioners why the Board should approve this without a plan in place. Lynn stated this was a place to start, and they could move forward with storing the contents of the house. Weis asked if the town had made comment to use the boxes as part of the structure. Joshua stated they did not. There was further discussion on the town's time limitation and the future road expansion project.

Weis stated, that in his opinion, they should do their research, have a definite game plan for what they are doing, and secure those permits first before they would be allowed to move these boxes in. He reasoned that if they could not rebuild, it would make no sense to approve the storage boxes. His suggestion was they begin the process of all the footwork that needs to be done such as finding out what they could build there, where they could build it, if a septic can be installed and get all those steps finalized. They, when all that is in order, then they could get permission to bring the storage boxes on the property. That way, the 2-year limit would have more meaning.

Larson asked how long they would need to do the research. Lynn stated she honestly did not know because this is all new to her.

There was further discussion on the project. Lynn stated they wanted the storage structures to get started and if there was a 2-year time limit, it would end in the winter.

11. Discussion and Possible Action on Above Petitions @ 1:34 p.m. (See following pages and files)

12. Adjourn

Hoefl made motion, seconded by Larson, motion carried 3-0 on a voice vote to adjourn @ 2:04 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.

DECISION OF THE ZONING BOARD OF ADJUSTMENT  
JEFFERSON COUNTY, WISCONSIN

FINDINGS OF FACT

PETITION NO.: 2023 V1733

HEARING DATE: 12-14-2023

APPLICANT: Philip Manley

PROPERTY OWNER: Lake Lane Trust (Geoffrey Van Thiel)

PARCEL (PIN) #: 018-0713-1041-002 (N6706 Lake Lane)

TOWNSHIP: Town of Lake Mills

INTENT OF PETITIONER: Allow a deck addition at less than the required 75' to the OHWM  
of Rock Lake

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.10(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 R-1, Residential-Sewered (0.39-ac)

-Sec. 11.10(f)1 requires a setback of 75 feet from the ordinary high-water mark of any navigable  
waters to the nearest part of a building or structure

-Setback averaging allows for reduced setback of 71'

-Request is to allow for 64' setback from proposed deck to OHWM

-LU permit #50975 for home with attached garage

-If approved, impervious surface calculations and mitigation required

-Town approved with no conditions on 11/14/2023

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

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

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: Not having access to viewing the lake is a hardship. Larson: The occupants need to have exterior enjoyment with a lake view. Hoeft: The current access from the house to the back yard is difficult.
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 existing structure has access issues for certain occupants causing a hardship. Larson: There is a physical limitation due to the lake distance to the home. Hoeft: The lake is where it is.
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 deck will have a minimum effect on the permeable surface. Larson: The deck will not affect road traffic or other neighbors' lake view. Hoeft: There is not a permeable problem now or after nor any pollution or flood hazard.

\*A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET\*

DECISION: THE REQUESTED VARIANCE IS GRANTED.

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

CONDITIONS OF APPROVAL: Mitigation similar to Sec. 11.10(k)3 is to be submitted and approved by the Zoning Department.

SIGNED: Dale Hois (Sm) DATE: 12-14-2023
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

FINDINGS OF FACT

PETITION NO.: 2023 V1734  
HEARING DATE: 12-14-2023

APPLICANT: Lynn Halbur

PROPERTY OWNER: Lynn Marie & Brian William Halbur

PARCEL (PIN) #: 024-0516-2324-001 (W797 State Road 59)

TOWNSHIP: Town of Palmyra

INTENT OF PETITIONER: Allow for the placement of two storage boxes at a reduced centerline and ROW setback

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.07(d) 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 (1.544-ac)
- Sec. 11.07(d) requires setback of 140' to road centerline and 70' to road right-of-way
- Request is to allow for 68' setback to centerline and 45' setback to right-of-way from proposed storage containers
- No LU permits on file for property
- No sanitary permit on file for property
- Town approved on 11/13/2023 with suggestion that a sunset date of 12/31/2025 for the temporary use described in the application

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

- 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: Normally storage units are allowed, but this situation is different. Larson: Hardship is due to the setbacks. Hoeft: Based on the terms of the Zoning Ordinance, if they did not receive a variance in this case, they could not begin their project.
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: There are limitations of space including the floodplain, highway, and water setbacks. Larson: The hardship is because of the setbacks and floodplain. Hoeft: There are limitations to the buildings which cannot be used as they are.
6. THE VARIANCE WILL NOT BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE Weis: There is a time restriction to assure the units do not stay forever. Larson: The structures will be temporary. Hoeft: It will not be contrary to the public interest as long as the permits are in place and the 12/31/2025 sunset is in place.

\*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)

CONDITIONS OF APPROVAL: Will allow the temporary structures once all permits have been obtained for construction/reconstruction of the home. The temporary structures are to be removed by 12/31/2025 unless agreed upon by the town and county.

SIGNED: Dale Hoefs (Signature) DATE: 12-14-2023
CHAIRPERSON

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