

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

Dale Weis, Chair; Joann Larson; Steven Masche

THE BOARD OF ADJUSTMENT WILL MEET ON THURSDAY, July 11, 2024, AT 10:15 A.M. Members of the public may attend at the Jefferson County Courthouse, 311 S Center Ave, Jefferson, WI, Room C1021. THE BOARD OF ADJUSTMENT WILL LEAVE FOR SITE INSPECTIONS AT 10:30 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

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

person:

1. Call to Order – 10:15 a.m. Room C1021 of the Jefferson County Courthouse

Meeting called to order @ 10:15 a.m. by Weis

2. Roll Call (Establish a Quorum)

Members present: Weis, Larson, Masche

Members absent: ---

Staff: Matt Zangl, Laurie Miller, Taylor Gray

3. Certification of Compliance with Open Meetings Law

Staff presented proof of publication.

4. Election of Officers

Larson made motion, seconded by Masche to elect Weis as chair. Larson made motion, seconded by Masche to close the nomination. Motion carried 3-0 on a voice vote to elect Weis as chair.

Masche made motion, seconded by Weis, motion carried 3-0 on a voice vote to elect Larson as vice-chair.

5. Approval of the Agenda

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

6. Approval of May 9, 2024, Meeting Minutes

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

7. Communications

Zangl noted there should be a formal letter to DNR from the Board to hear from them on every petition or on an individual basis. There was discussion. Zangl will send them a letter.

8. Public Comment - None

9. Site Inspection – Beginning at 10:30 a.m. and Leaving from Room C1021 of the Jefferson County Courthouse, 311 S Center Ave, Jefferson, WI

- a. V1749-24 - Ryan & Nicole Meyers, W9017 US Highway 18, Town of Oakland – PIN 022-0613-0543-003
- b. V1748-24 – Erik & Sarah Hoffman, N435 Oxbow Bend, Town of Koshkonong – PIN 016-0513-3412-017
- c. V1747-24 – John & Tina Condon, N2704 Willing Road, Town of Hebron – PIN 010-0615-3114-007

10. Public Hearing Beginning at 1:00 p.m., Jefferson County Courthouse Room C1049

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

Members present: Weis, Larson, Masche

Members absent: ---

Staff: Matt Zangl, Laurie Miller, Haley Nielsen, Taylor Gray

11. 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 11, 2024, at the Jefferson County

Courthouse Room C1021, Jefferson, Wisconsin. Matters to be heard are applications for variance from terms of the Jefferson County Zoning Ordinance and Floodplain 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:

V1747-24 – John & Tina Condon: Variance from Sec. 11.07(d) of the Jefferson County Zoning Ordinance to allow a reduced road setback for a proposed attached garage at **N2704 Willing Road** in the Town of Hebron on PIN 010-0615-3114-007.

John Condon (N2704 Willing Road) presented his petition. He stated he wanted to construct an attached garage. The house is at a 45% angle so by attaching the garage, they will be too close to the centerline of the road and will need a variance.

Zangl asked the petitioner to explain the reasons why the Board should approve the variance. The petitioner stated because of the odd position of the house, if they built the garage, it would be too close to the centerline of Willing Road. They would be OK off Roach Lane. A variance was granted for the house to a previous owner from State Road 106.

Zangl asked for the location of the septic. The petitioner stated it was behind the house and the proposed garage, and the well is in the front of the house.

Weis asked the petitioner for the size of the garage. The petitioner stated it would be 42'x24' which is almost the exact size of the cement pad that is there now coming out 1' further on the northwest corner of the property. Weis asked if he was going closer to the septic. The petitioner stated it would be further away.

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 Zangl. He stated the property is zoned R-2. The setback requirement for Willing Road is 85' to the centerline of the road and 50' from the ROW. He is proposing to be 80' from the centerline of the road and 47' from the ROW. On the north side of the property is Roach Lane which requires an 85' setback to the centerline of the road and 50' to the ROW. However, if it were considered a town road in a subdivision, the setbacks would be 63' to the centerline and 30' to the ROW, and he is proposing a centerline setback of 73' and 43' from the ROW. There was a previous variance approved to place the house on the property at reduced setbacks.

Weis asked if this garage had any encroachment on the State Road 106 setback. Zangl stated no. Weis asked if the proposed 80' setback was from the foundation or the roofline. The petitioner stated it was from the foundation. Weis noted the measurement needed to be to the roofline.

Larson noted there was an email in file stating the Highway Department had no objections.

The petitioner explained why he felt he met the three criteria needed for variance approval which is also in the file.

V1749-24 – Ryan & Nicole Meyers: Variance from Sec.11.09(c) of the Jefferson County Zoning Ordinance to allow for an expansion greater than 50% of the footprint of a non-conforming structure. The site is located at **W9017 US Highway 18** on PIN 022-0613-0543-003.

Ryan Meyers (W9017 US Highway 18) presented his petition. He stated that he wanted to add onto the existing barn to keep his trailers in. This would be a cold storage area, and the additional storage would help keep the property neat and clean. It would also protect his personal property from the weather.

The addition would be 32'x40' and would aesthetically be the same as the existing with lights and electricity. There is limited access from US Highway 18 so they would be using the existing driveway. He explained the culverts and water issues. There is no other site to build another structure on the property, so he wants to add on.

Weis asked if there was a well or septic servicing the structure. The petitioner stated it was all located near the house. There was no septic or bathrooms serving the structure. Weis noted using the existing driveway for access would be the easiest.

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

Masche asked if they would be excavating into the hillside. The petitioner stated there would be a knee wall and they will cut into the hill with another knee wall. Larson noted both lots are zoned R-2 and are separate. She asked if they could build another house there. They also have

horses in the R-2 which need permits. The petitioner stated because of the runoff of the two roads, it is very low and would be hard to build a house. They have no intentions of selling the lot. He did not think that because of how low it is that a house could be built without water issues.

Zangl noted it was a saleable parcel and the horses exist with a previous conditional use permit for horses. He asked the petitioner how many horses they had. The petitioner stated two.

Staff report was given by Zangl. He stated the road setback for US Highway 18 was 140'. However, in the 1990's, the DOT took some of the property for the ROW. As a result, this structure is now non-conforming. He asked the petitioner if he was proposing any bathrooms. The petitioner stated no.

There was a town response in the file signed May 22, 2024, approving the petition which was read into the record by Weis.

V1748-24 – Erik & Sarah Hoffman: Variance from Sec. 14.43(1)(a) of the Jefferson County Floodplain Ordinance to allow for less than 15' of fill around a structure in the floodplain using 9.9' instead of the required 15'. The site is located at **N435 Oxbow Bend** on PIN 016-0513-3412-017 in the Town of Koshkonong.

Erik Hoffman, N435 Oxbow Bend, presented his petition. He stated that he will be raising the house out of the floodplain by 5' with a foundation wall underneath. There is not 15' to the neighbor's lot to the south, and he is asking for 9.9' of fill around the house instead of the required 15'.

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

Staff report was given by Zangl. He stated this variance is from the Floodplain Ordinance. The structure is in the floodplain which allows for 50% of the EAV for the lifetime of the structure. In order to remove the restrictions and be conforming, he needs to raise the first floor of structure by 2' and build an island above the floodplain by 1'. The fill island has to be 15' around the house. He has been working with an engineer and they should approve the fill except for the south lot line because there is not 15'. The engineer is proposing 9.9' which is short of the 15' requirement.

Zangl asked the petitioner if the driveway was in the 15'. The petitioner stated it was slightly downhill. Zangl noted there was some fill for the driveway which had a good pitch. The neighbor 1-2 houses to the south also got variance which was slightly different than what is being proposed but they do have a variance to allow their development.

This requirement was established by the federal government and handed down to the state, but the state could enact more restrictive regulations. This comes from the state. He further explained.

Weis asked if the house immediately to the south has been raised. The petitioner stated yes, their yard is higher. Weis asked if it was close to being at grade. The petitioner stated that he would be 1' higher than the neighbor. Larson asked about if there would be runoff problems for being lower. The petitioner stated no because there will be a retaining wall between the properties. Weis asked if there was an engineer involved. The petitioner stated he was trying to stay within the guidelines. He knows the neighbors well and will do what is best for both properties. Weis stated he felt engineer would have a professional opinion how to address the transition from one property to the other. Zangl stated he did not know if the water runoff was touched upon, but it would be something that could be addressed in the decision. They could divert the runoff away from the neighbors. Weis asked about the retaining wall that was being proposed. The petitioner stated he would follow whatever was recommended. He does not have any design specs yet. Weis asked the petitioner to address the grade difference. The petitioner stated he would be willing to do the retaining wall or grade to merge the properties. Weis noted he would respect whatever was recommended by the engineer. There was further discussion.

Zangl explained the Flood Storage District and the fill requirements.

Per Zangl, DNR was notified, but we got no response.

There was a town decision in the file signed June 12, 2024, approving the petition which was read into the record by Weis.

12. Discussion and Possible Action on Above Petitions (See also following pages & files)

13. Adjourn

Masch made motion, seconded by Larson, motion carried 3-0 on a voice vote to adjourn @ 2:22 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.jeffersoncountyiwi.gov

DECISION OF THE ZONING BOARD OF ADJUSTMENT
JEFFERSON COUNTY, WISCONSIN

COPY

FINDINGS OF FACT

PETITION NO.: 2024 V1747
HEARING DATE: 07-11-2024

APPLICANT: John & Tina Condon

PROPERTY OWNER: SAME

PARCEL (PIN) #: 010-0615-3114-007 (N2704 Willing Road)

TOWNSHIP: Town of Hebron

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

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 is zoned R-2 Residential/Unsewered (0.746 acres).
- Sec. 11.07(d) requires a minimum setback of 85 feet to the centerline of Willing Road, and 50 feet to the road right-of-way
- Request to allow for an attached garage to be placed 80 feet from the centerline of Willing Road, and 47 feet from the right-of-way.
- Previous variance in 1994 for placement of the home @ a reduced setback to STH 106
- Sanitary Permit 8621 issued (1994 – Mound)
- Land Use permit 55015 issued for shed.
- Town approved with no conditions 5/13/2024

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

COPY

FINDINGS OF FACT

PETITION NO.: 2024 V1749
HEARING DATE: 07-11-2024

APPLICANT: Nicole Meyers

PROPERTY OWNER: Ryan & Nicole Meyers

PARCEL (PIN) #: 022-0613-0543-003 (W9017 USH 18)

TOWNSHIP: Town of Oakland

INTENT OF PETITIONER: Allow for an expansion of greater than 50% of the footprint of a non-conforming structure.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.09(c) 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 (4.696 acres).
- Sec 11.09(c) does not allow for additions to nonconforming structures to exceed 50% of the existing structural members.
- Request to allow for addition to existing non-conforming structure exceeding 50% of structural members
- Land Use permit #26901 – for Indoor riding arena
- No sanitary permit on file
- Town approved with no conditions on May 22, 2024
- Existing structure is legal non-conforming because it does not meet road setbacks.

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

FINDINGS OF FACT

COPY

PETITION NO.: 2024 V1748
HEARING DATE: 07-11-2024

APPLICANT: Erik Hoffman

PROPERTY OWNER: Erik & Sarah Hoffman

PARCEL (PIN) #: 016-0513-3412-017 (N435 Oxbow Bend)

TOWNSHIP: Town of Koshkonong

INTENT OF PETITIONER: Allow less than 15' of fill around a structure in the floodplain using 9.9'
instead of 15'

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 14.43(1)(a) OF THE
JEFFERSON COUNTY FLOODPLAIN ORDINANCE.

THE FEATURES OF THE PROPOSED CONSTRUCTION AND PROPERTY WHICH RELATE TO
THE GRANT OR DENIAL OF THE VARIANCE APPLICATION ARE:

- The structure/single family house is within the floodplain (floodstorage and flood fringe districts)
- Any work to the structure is limited to 50% of the equalized assessed value (remodeling, additions)
 - Approximately \$130,000 EAV = \$65,000 of work can be permitted
- Unless the structure is changed to conform to section 14.4.3 of the floodplain ordinance
 - 14.4.3(1)a requires 15' fill around the permitter of the house
- The variance request is to allow approximately 9.9' of fill around the south side of the house,
instead of 15'
- See section 14.7.3 for the BOA role and authority to grant variances
- Property line limits ability to meet 15' requirement
- Property owner intend to comply with all other sections of the floodplain ordinance, include
engineer approval and surveying requirements
- Zoning Permit issued to raise house to be 2' above the floodplain in 2024

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

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

Additional FINDINGS OF FACT and DECISION

PETITION NO.: 2024 V1748
HEARING DATE: 07-11-2024

APPLICANT: Erik Hoffman

PROPERTY OWNER: Erik & Sarah Hoffman

PARCEL (PIN) #: 016-0513-3412-017 (N435 Oxbow Bend)

Section 14.7.3(4) of the Floodplain Ordinance:

(4) VARIANCE

(a) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:

1. Literal enforcement of the ordinance will cause unnecessary hardship;

BOA Response: See Section C above.

2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;

BOA Response: See Section C above.

3. The variance is not contrary to the public interest;

BOA Response: See Section C above.

4. The variance is consistent with the purpose of this ordinance in s. 14.1.3.

BOA Response: The 9.9' of fill is going to accomplish the same as the 15' fill. The 9.9' of fill implements the purpose of the Ordinance.

(b) In addition to the criteria in subd. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:

1. The variance shall not cause any increase in the regional flood elevation;

BOA Response: The applicant is working with an engineer & will provide approval before the zoning permit is issued.

2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE; and

BOA Response: This is true about this lot and variance request and the property is similar to other properties in the area.

3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

BOA Response: This variance request is the minimum relief necessary and provides the required fill up to the property line with room for a retaining wall.

(c) A variance shall not:

1. Grant, extend or increase any use prohibited in the zoning district;

BOA Response: The use is already existing and is not prohibited.

2. Be granted for a hardship based solely on an economic gain or loss;

BOA Response: The variance is not granted on economic gain or loss.

3. Be granted for a hardship which is self-created.

BOA Response: This is not self-created – this is similar to other properties.

4. Damage the rights or property values of other persons in the area;

BOA Response: Does not damage the property values or people.

5. Allow actions without the amendments to this ordinance or map(s) required in s. 14.8.0 *Amendments*; and

BOA Response: This variance does not require an amendment.

6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

BOA Response: The structure is not historic.

(d) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

BOA Response: It is incorporated into the decision and this decision will be sent to the petitioner for their record.