

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

Dale Weis, Chair; Janet Sayre Hoeft, Vice-Chair; Aari Roberts, Secretary

PUBLIC HEARING BEGINS AT **1:00 P.M.** ON JANUARY 10, 2019 IN ROOM 205, JEFFERSON COUNTY COURTHOUSE

CALL TO ORDER FOR BOARD MEMBERS IS AT 10:30 A.M. IN COURTHOUSE ROOM 203, PRIOR TO THE HEARING

SITE INSPECTION FOR BOARD MEMBERS LEAVES AT 10:45 A.M. FROM COURTHOUSE ROOM 203, PRIOR TO THE HEARING

1. Call to Order-Room 203 at 10:30 a.m.

Meeting called to order @ 10:30 a.m. by Weis

2. Roll Call (Establish a Quorum)

Members Present: Roberts, Weis

Members Absent: Hoeft

Staff: Matt Zangl, Laurie Miller, Lindsey Schreiner

3. Certification of Compliance with Open Meetings Law

Staff presented proof of publication.

4. Approval of the Agenda

Weis made motion, seconded by Roberts, motion carried 2-0 on a voice vote to approve the agenda.

5. Approval of November 8, 2018 Meeting Minutes

Roberts made motion, seconded by Weis, motion carried 2-0 on a voice vote to approve the meeting minutes.

6. Communications

Zangl informed the Board that they are in the process of searching for alternates. A notice was sent to the towns with a possibility of publishing a public notice thereafter.

Zangl noted that they are in the process of updating the Comprehensive Plan which is made up of a Steering Committee of up to 18 people.

7. Public Comment – None

NOTE: Hoeft present @ 10:45 for site inspections.

8. Site Inspections – Beginning at 10:45 a.m. and Leaving from Room 203

V1639-19 – Leverenz Building & Remodeling Ltd/Amber Leverenz & Brian Werth Property

V1638-19 – John A Lemke Sr/N&M Lemke Trust Property

9. Public Hearing – Beginning at 1:00 p.m. in Room 205

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

Members present: Weis, Roberts, Hoeft

Members absent: -----

Staff: Matt Zangl, Laurie Miller, Sarah Higgins

10. Explanation of Process by Board of Adjustment 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, January 10, 2019 in Room 205 of the Jefferson County Courthouse, Jefferson, Wisconsin. Matters to be heard are applications for variance from terms of the Jefferson County Zoning Ordinance. No variance may be granted which would have the effect of allowing in any district a use not permitted in that district. 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, variances may be granted where strict enforcement of the terms of the ordinance results in an unnecessary hardship and where a variance in the standards will allow the spirit of the ordinance to be observed, substantial justice to be accomplished and the public interest not violated. Based upon the findings of fact, the Board of Adjustment must conclude that: 1) Unnecessary hardship is present in that a literal enforcement of the terms of the ordinance would unreasonably prevent the owner from using the

property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome; 2) The hardship is due to unique physical limitations of the property rather than circumstances of the applicant; 3) The variance will not be contrary to the public interest as expressed by the purpose and intent of the zoning ordinance. **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:

V1638-19 – John A Lemke Sr/N&M Lemke Trust Property: Variance from Sec. 11.03(d)1 of the Jefferson County Zoning Ordinance to allow creation of a 3.2-acre building site using an existing private right-of-way to State Road 106. The site in the Town of Koshkonong on PIN 016-0614-3633-003 (12.665 Ac), near **W5273 State Road 106**, and is zoned Residential R-2.

John Lemke, 6646 W Woodridge Drive, presented the petition. He began by introducing other family members present, and asking the Board if they had a copy of the map and the letter he submitted. (Was in the file) Mr. Lemke read his letter into the record explaining his request. He wants down-size his home, and live closer to his mother to be able to take care of her. The variance is to enter off of STH 106 onto a private drive, and then extend his driveway off the existing driveway used to access his mother's property. He is looking to create approximately a 2 acre lot. He would install his own driveway, if he needed to.

In favor were Mildred Lemke and David Lemke. There were no questions or comments in opposition of the petition. There was a town response in the file approving the petition with a condition on the driveway, read into the record by Roberts.

David Lemke made comment on the driveway request and surrounding ag lands. There was a discussion on the Town of Koshkonong's decision. Roberts asked the petitioner which lands were owned by Lemke. John Lemke approached digital map and identified those lands. There was discussion on the land ownership and access to the farmland. Roberts commented that the access for the new lot would be also for access to the 12 acres. Zangl further explained the access issue.

Zangl gave staff report. He referenced 11:03(d) which states in part that all parcels shall have 66' frontage and access to a public road. This is a private road owned by the trust for the use of the lots zoned R-2. There is documentation in the file showing access to these lots by deed. There is no way to create a new lot to access the public road. Zangl asked the petitioner about obtaining access across the lands owned by Kutz. The petitioner stated he did not talk to Kutz, but it was too wet there. Zangl asked the petitioner if there was a way to run the driveway through there

for access to STH 106. There was further discussion. Zangl stated this is an old R-2 zone created in 1975.

Roberts asked about the frontage off the private drive. Zangl stated it is a 66' access but it's not from a public road. Roberts commented that it would be enough to dedicate it to the town. Zangl commented that the towns are not interested in creating new roads. If it was dedicated as a town road, then they would meet the requirements. Roberts commented that this private road accesses about 5 lots. Hoelt questioned staff about a physical limitation to the property because the town is not willing to turn that lane into a public road. Zangl stated he would be hesitant about it because there are enough of these around the county, and did not want to get into the mind-set of allowing variances for access of residential lots. If the town wants to dedicate as a town road, the town can do so. Weis made comment about this having the history of being zoned R-2. Zangl stated it has been residential since 1975. Weis noted that there are 4 existing structures now. This has history being legal at one time, and since that time, the zoning laws of changed. It doesn't change anything to allow one more access. Hoelt asked the petitioner how many structures where there when this was zoned R-2. The petitioner stated 3 and further explained. The structures were there in the 1950's. Zangl stated the R-2 was created to build their house.

Roberts stated there have been shared driveways in the past and explained some of the problems that go along with it. He wanted to recommend a shared driveway agreement with all the property owners to avoid any problems down the road. There was further discussion about establishing a legal agreement. Roberts asked staff if there was a sample agreement. Zangl stated we don't come across it that often and further explained. He would recommend an agreement and the private road identified properly if the variance is approved. Roberts confirmed the need for identifying the access and having a legal agreement for access for all the owners.

Roberts noted the balance of the lot was also zoned R-2, so they could have more lots, and with access would also serve the remaining farmland. Zangl further explained the R-2 remnant area. There was further discussion with the Board, staff, and petitioners regarding the R-2 remnant lands and driveway access.

Weis suggested the Board table the petition to get an agreement signed by all parties for access and redraw out the map. There was further discussion. Weis noted they were looking for assurances for the current properties, and for future use and owners.

There was further discussion on the need for a legal access agreement. The petitioner questioned if he could still use the existing driveway for access. Weis explained the use of a shared driveway. Roberts made suggestion of another condition in that they would need public access for any additional lots. Zangl noted this would be the last house or lot unless something changed or it was made a public road. Also, the Board

felt it might be better to create the lot around the existing home rather than creating a new lot.

V1639-19 – Leverenz Building & Remodeling Ltd/Amber Leverenz & Brian Werth Property: Variance from Sec. 11.09(c) of the Jefferson County Zoning Ordinance to allow an addition to a non-conforming structure in excess of 50% of its existing foundation footprint. The site is at **N8590 County Road E**, on PIN 032-0815-1442-000 (19.724 Ac) in the Town of Watertown in an A-1, Exclusive Agricultural zone.

Gary Leverenz presented the petition. Amber Werth (N8590 CTH E) was also present. The petitioner stated the house was 94' from the centerline. It should be 110' to the centerline. They will not be going any closer to the road, but it is over 50% of expansion. They want a basement entry and a second story.

Roberts asked the petitioner to explain the second story. The petitioner stated the second story has a flat roof dormer they want to eliminate as well changing the roofline. Roberts confirmed with them that they were not adding on to the north because of the septic. The petitioner stated yes, and it would be cheaper to go up. Weis also noted they are limited not going to towards the road. Amber Werth stated that because of the children, they wouldn't want to go closer to the road. Weis clarified the hardship as explained by the petitioner and the physical features of the land.

Roberts noted that on the public interest aspect, CTH E is a very busy road and is a main thoroughfare with adequate room to expand the road. The petitioner stated the second floor would add more space for a larger family. Hoeft clarified with the petitioner that this was for a larger family.

Weis questioned the town's decision on approving it with no addition of bedrooms versus what was in the file for 3 bedrooms with affidavit. Weis also explained the purpose of the affidavit. Zangl noted that it was just a town recommendation and the Board does not have to follow the recommendation. He asked the petitioner about the number of bedrooms. The petitioner stated it was 3 bedrooms when it was bought, but was sold as 2 bedrooms because of the repairs needed to the one bedroom. Zangl asked him how many bedrooms there would be if they were approved today. The petitioner stated there would be 3. Zangl asked if they have had the septic checked. Amber Werth stated that they have it checked regularly per the county requirements, but not recently. Zangl explained the affidavit which would allow them to add the bedroom without making them put in a new system if the current system is not failing. Hoeft commented on the original septic evaluation.

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

Staff report was given by Schreiner. The property is zoned A-1 with the house being built in the early 1900's which was pre-1970 so there is no permit on file. They are looking to modernize the home. She gave the existing square footage footprint and the proposed square footage footprint exceeding the 50% expansion.

Roberts commented that if they kept it below 550 square feet, they wouldn't need the variance. Zangl noted that they were here for the footprint expansion. There was a discussion about the current septic system and replacement should it fail. Weis asked the petitioner that if the septic were replaced, would that change the plans for expansion. The petitioner stated that it would work better to go up rather than expand the foundation and asked staff if, with the affidavit, a septic evaluation would be needed. Zangl stated yes, it would need to be inspected. Weis asked staff if that would require a soil boring. Zangl stated he would have to look into that. The petitioner stated he would have to look at having it evaluated or just replace the system. Of he has to stick a lot of money into the evaluation, he would rather just have it replaced. Robert asked the petitioner if they replaced the system, would they expand rather than go up. Amber Werth stated they would like to go up so they aren't taking up more yard area for the kids to play. Zangl explained to the petitioner the reason the Board was asking all these questions was if the septic needed to be replaced, and they decided to expand out rather than up, they would have to come in for another variance.

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

12. Adjourn

Hoelt made motion, seconded by Weis, motion carried 3-0 on a voice vote to adjourn @ 2:45 p.m.

If you have questions regarding these variances, please contact the Zoning Department at 920-674-7113 or 920-674-8638. Variance files referenced on this hearing notice may be viewed in Courthouse Room 201 between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, excluding holidays. Materials covering other agenda items can be found at www.jeffersoncountywi.gov.

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

Secretary

Date

**DECISION OF THE ZONING BOARD OF ADJUSTMENT
JEFFERSON COUNTY, WISCONSIN**

FINDINGS OF FACT

PETITION NO.: 2019 V1638

HEARING DATE: 1-10-2019

APPLICANT: John A Lemke Sr

PROPERTY OWNER: N & M Lemke Trust c/o Mildred Lamke

PARCEL (PIN #): 016-0614-3633-003 (State Road 106)

TOWNSHIP: Koshkonong

INTENT OF PETITIONER: To allow for a 3.2-acre R-2 zoned building site without frontage and access to a public road

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.03 (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:

- Rezoned to R-2 in 1975 (R131A)
- Petitioners would like to build another home/create a lot-would only need a CSM approved and signed off by the Town and Zoning Director if it meets all ordinance requirements.
- Property is a larger than normal for an R-2 zone (12.67-acres)
- 4 homes currently exist on the private drive located off State Road 106
- 11.03(d)- All lots shall front on and have access to a Public Road for a minimum distance of at least 66 feet.
- The proposed lot will have frontage and access to the private road that is owned by Lemke's, but is not public. Access would be an easement onto the private road.
- Town approved with condition 11-14-18 (see file for condition)

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

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

DECISION STANDARDS

- A. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING IN ANY DISTRICT A USE NOT PERMITTED IN THAT DISTRICT _____
- B. 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: _____
- C. SUBJECT TO THE ABOVE LIMITATIONS, VARIANCES MAY BE GRANTED WHERE STRICT ENFORCEMENT OF THE TERMS OF THE ORDINANCE

PARCEL (PIN #): 032-0815-1442-000 (N8590 County Road E)

TOWNSHIP: Watertown

INTENT OF PETITIONER: To allow for the addition to a non-conforming structure that is in excess of 50% of the existing foundation footprint in an A-1 zone

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 currently zoned A-1

-The home on the subject property was built in the early 1900's (pre-1970 with no permit on file) and the improvements are to modernize the home and better suit needs of expected larger family. The basement addition is to have a safe and up to code basement stairway.

-existing foundation footprint= 1,134 sq ft; vertical & horizontal expansion= 717 sq ft >50% expansion)

-the number of structural members within the expansion would have met the requirements, but footprint expansion is over 50% of existing foundation footprint.

-Sanitary Permit sized for 2 bedrooms; addition would be adding third bedroom; thus would need a septic evaluation and affidavit if approved

-11.09(c)-Existing non-conforming structures...it shall not be existing structure with additions not exceeding 50% of existing foundation footprint whether vertical or horizontal and the addition shall meet all setbacks or go no closer to any side, rear, or road setback.

-Town approved with condition on 12/10/18 (see file for condition)

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

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

DECISION STANDARDS

A. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING IN ANY DISTRICT A USE NOT PERMITTED IN THAT DISTRICT _____

B. 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: _____

C. SUBJECT TO THE ABOVE LIMITATIONS, VARIANCES MAY BE GRANTED WHERE STRICT ENFORCEMENT OF THE TERMS OF THE ORDINANCE RESULTS IN AN UNNECESSARY HARDSHIP & WHERE A VARIANCE IN THE

