

DODGE COUNTY BOARD OF ADJUSTMENT MINUTES
October 15, 2020

The Dodge County Board of Adjustment met on this 15th day of October at 7:00 p.m., in Rooms 1H and 1I on the 1st Floor of the Administration Building, located at 127 East Oak Street, Juneau, Wisconsin.

Chairman William Nass called the meeting of the Dodge County Board of Adjustment to order.

Roll Call was taken.

Members present were as follows: Larry Dogs, Harold Hicks, William Nass, Jon Schoenike and Sharon Schumann. Members excused were Edward Premo (Alternate 1).

Joseph Giebel of the Land Resources and Parks Department was in attendance at the request of the chairman;

Non-Committee Member County Board Attendance: None

Chairman Nass noted that a quorum is present.

The Chairman asked the staff to confirm compliance with the open meeting laws and the public hearing notice requirements. Joseph Giebel noted that the meeting was properly noticed in accord with the open meeting law and noted that the required notices for the public hearings listed on the agenda were posted, mailed and published in accord with the statute and code requirements.

The minutes from the October 8, 2020 meeting were reviewed by the Board.

Motion by Harold Hicks to approve the minutes as written.

Second by Jon Schoenike Vote: 5-0 Motion carried.

The staff explained the hearing procedures to those in attendance;

PUBLIC HEARING

Craig Ladwig – Request for a variance to the terms of the highway setback provisions of the Dodge County Land Use Code to allow the construction of an approximate 45' X 30' home addition where said addition will be located approximately 31' within the required setback line from County Road FW. The site is located in part of the NE ¼ of the NW ¼, Section 5, Town of Calamus, the site address being W11514 County Road FW.

Motion by Jon Schoenike to approve the request for a variance to the terms of the highway setback provisions of the Dodge County Land Use Code to allow the construction of an approximate 45' X 30' home addition where said addition will be located approximately 31' within the required setback line from County Road FW subject to the following conditions:

1. A variance agreement shall be required to be recorded with the Register of Deeds Office in the amount of the proposed construction project prior to the approval of the land use permit.

Second by Harold Hicks Vote: 5-0 Motion carried.

PUBLIC HEARING

Greg Stadler, agent for John and Vicki Fink – Request for a variance to the terms of the water setback provisions of the Dodge County Shoreland Protection Ordinance to allow the construction of a 30' X 50' replacement detached garage where said garage will be located 45' from a navigable waterway. The site is located in part of the NE ¼ of the NW ¼, Section 6, Town of Theresa, the site address being W2331 Elm Drive.

Motion by Larry Dogs to approve the variance request to allow the construction of a 30' X 50' replacement detached garage where said garage will be located 45' from a navigable waterway as proposed.

Second by Sharon Schumann Vote: 5-0 Motion carried.

PUBLIC HEARING

Craig and Nicole Schmidt, agents for Steven and Jane Schmidt revocable Trust – Request for a variance to the terms of the highway setback provisions of the Dodge County Land Use Code to allow for the construction of a 19' X 26' home addition, where said addition will be located approximately 88' from the centerline of County Road E or 12' within the required highway setback lines. The site is located in part of the NW ¼ of the SW ¼, Section 20, Town of Hustisford, the site address being N3456 County Road E.

Motion by Jon Schoenike to approve the variance request to allow for the construction of a 19' X 26' home addition, where said addition will be located approximately 88' from the centerline of County Road E or 12' within the required highway setback lines subject to the following conditions:

1. A variance agreement shall be required to be recorded with the Register of Deeds Office in the amount of the proposed construction project prior to the approval of the land use permit.

Second by Sharon Schumann Vote: 5-0 Motion carried.

PUBLIC HEARING

Paul Marceau – Request for a variance to the terms of the Highway Setback Overlay District provisions of the Dodge County Land Use Code to allow the construction of a second story addition to the detached garage, where said addition will be located approximately 46 feet within the required highway setback lines at this location. The site is located in part of the NW ¼ of the SW ¼, Section 32, Town of Hubbard, the site address being N5044 Butternut Court.

Motion by Sharon Schumann to approve the variance request to allow the construction of a second story addition to the detached garage, where said addition will be located approximately 46 feet within the required highway setback lines subject to the following conditions:

1. A variance agreement shall be required to be recorded with the Register of Deeds Office in the amount of the proposed construction project prior to the approval of the land use permit.

Second by Harold Hicks Vote: 5-0 Motion carried.

PUBLIC HEARING

Lance and Renee Donegon – Request for a variance to the terms of the accessory structure height and area provisions of the Dodge County Land Use Code to allow the construction of a detached shed where said shed exceeds the maximum allowed accessory building area and the maximum building height. The site is located in part of the NE ¼ of the NE ¼, Section 4, Town of Hustisford, the site address being N4853 County Road E.

Motion by Larry Dogs to approve the variance request to allow the construction of a detached shed where said shed exceeds the maximum allowed accessory building area and the maximum building height subject to the following conditions:

1. This structure shall not be used for human habitation or overnight accommodations;
2. This structure shall not be rented out for storage space;

Second by Sharon Schumann Vote: Motion carried.

Motion by Jon Schoenike to adjourn the meeting.

Second by Sharon Schumann Motion carried. 8:42 PM

Future Meeting Schedule

1. Thursday, November 5, 2020 • 9:30 a.m. • 3rd Floor Land Resources and Parks Conference Room • Administration Building • Juneau, Wisconsin – On Site Inspections
2. Thursday, November 12, 2020 • 7:00 p.m. • 1st Floor, Rooms 1H/1I • Administration Building • Juneau, Wisconsin – Public Hearings

Respectfully submitted,

Larry Dogs, Secretary

Disclaimer: The above minutes may be approved, amended or corrected at the next committee meeting.

Land Resources and Parks Department Staff Report

County Variance Application No. 2020-0984
County Land Use Permit Application No. 2020-0828
Filing Date: October 2, 2020
Hearing Date: November 12, 2020

Applicant / Owners:

Trent Fetzer
Ember Shea
W746 State Road 60
Rubicon, WI 53078

Location

PIN#: 022-1116-3332-023

Lot 3 Lakeside Heights, located in part of the NW ¼ of the SW ¼, Section 33, Town of Hubbard, the site address being N5013 Mark Lane.

County Jurisdiction

The County has highway setback jurisdiction over this site as the Town of Hubbard has adopted the Highway Setback Overlay District provisions of the County's Land Use Code.

Review Criteria

Subsections 2.3.12.A through 2.3.12.G of the Dodge County Land Use Code details procedural matters and the approval criteria for the variance process. The Board shall hold a public hearing on each variance application, and following the public hearing, act to approve, approve with conditions, or deny the variance based upon the approval criteria of Section 2.3.12.E.

Appellants Request

On October 2, 2020, a request for a variance to the terms of the Highway Setback Overlay District provisions of the Dodge County Land Use Code was submitted to allow the construction of a residence and attached garage where a portion of said residence will be located approximately 67' from the centerline of Mark Lane or 8' within the required highway setback lines. This is an after the fact variance request as the foundation for the house has been installed on this site prior to the issuance of any County permits.

Features

The features of the proposed construction and property that relate to the granting or denial of the appeal are as follows:

The County has highway setback jurisdiction over this site as the Town of Hubbard has adopted the Highway Setback Overlay District provisions of the County's Land Use Code. The site is also located within the County's Shoreland Protection Ordinance jurisdiction as the site is located within 1000 feet of Lake Sinissippi.

The property is a vacant lot within a platted subdivision.

The physical features of this approximate 0.833-acre lot include a rolling topography with slopes ranging from 0 to 12%. The parcel contains a recently poured foundation.

The general character of the surrounding land use consists of Residential homes and agricultural land.

On August 31, 2020, an application for a County Land Use Permit was made by the appellant in order they be allowed to construct a residence with an attached garage. On August 31, 2020, the applicant was notified that additional information was required to complete the application. On September 30, 2020, the staff observed that the foundation for the house had been installed on this site prior to the issuance of any County permits.

The Land Use permit was denied by the County Land Use Administrator for the following reason:

Subsection 4.6.4.A and Table 5.1-1 of the Land Use Code refer to the required setbacks from public roads, streets and highways, within the Highway Setback Overlay District. For the specific section of Mark Lane, along which the above noted project is to take place, the required setback is 75 feet from the centerline or 42 feet from the road right-of-way, whichever distance is greater. According to County records the required setback at this location is 75' from the centerline of Mark Lane. As proposed, the residence and attached garage will be located approximately 67' feet from the centerline of Mark Lane or approximately 8' within the required setback, therefore not in compliance the highway setback provisions of the Code.

The appellant is requesting an area variance to Subsection 4.6.4.A and Table 5.1-1 of the code;

Town Recommendation: Approve;

Purpose Statement

The highway setback provisions of the County Land Use Code promote a variety of public purposes such as providing for light and air, fire protection, traffic safety, prevention of overcrowding, solving drainage problems, protecting the appearance and character of the neighborhood and for conserving property values. The highway setback provisions also provide for a uniform setback for all structures along all roads within the County in order to provide safe visibility while entering or exiting a site and to save tax payers of Dodge County from having to purchase non-conforming structures located within the highway setback lines, when those structures need to be removed for highway improvement or relocation projects.

Staff Advisory:

This staff advisory is only advice to the Dodge County Board of Adjustment. The Board may or may not consider the advice of the staff and decision making authority is vested in the Board only.

The staff believes that the appellant is requesting an area variance to Subsection 4.6.4.A and Table 5.1-1 of the code;

The staff points out that this is an after the fact variance request and the Board should review this request as if the foundation does not yet exist.

The staff points out that the Board does not have summary power to ignore ordinance provisions or objectives. The burden also falls on the appellant to convincingly demonstrate to this Board that a literal enforcement of the Land Use Code regulations would result in an unnecessary hardship, that the hardship is due to special conditions that are unique to the property and if granted, the variance would not be contrary to the public interest.

It is the staff's position that the request does not meet all three criteria that are necessary to grant a variance in this case. It is the staff's position that there are no physical limitations on the property that prevent the homeowner from complying with the highway setback provisions of the Land Use Code. The appellant's lot was a vacant lot that has sufficient room on the lot to comply with the highway setback provisions of the Code.

It is the staff's position that applicant may not claim a hardship because of conditions which are self-imposed. In this case, the applicant started construction of the foundation without first obtaining the required County permits and then it was determined by the County that portions of the foundation are located within the highway setback lines. It is also the staff's position that economic loss or financial hardship that is due to self-imposed circumstances do not justify a variance.

The purpose of the highway setback provisions of the Code is to provide for a uniform setback for all structures along all roads within the County in order to provide safe visibility while entering or exiting a site and to save tax payers of Dodge County from having to purchase non-conforming structures located within the highway setback lines, when those structures need to be removed for highway improvement or relocation projects. It is the staff's position that the highway setback provisions of the Code are not unnecessarily burdensome in this case and the applicant has sufficient room on the property to construct the proposed house in compliance with the code.

It is the staff's position that that the Board will be unable to make the findings that are necessary in order to grant a variance in this case and therefore the variance request should be denied.

Dodge County Board of Adjustment Decision

County Variance Application No. 2020-0984
County Land Use Permit Application No. 2020-0828
Filing Date: October 2, 2020
Hearing Date: November 12, 2020

Applicant / Owners:

Trent Fetzer
Ember Shea
W746 State Road 60
Rubicon, WI 53078

Location

PIN#: 022-1116-3332-023
Lot 3 Lakeside Heights, located in part of the NW ¼ of the SW ¼, Section 33, Town of Hubbard, the site address being N5013 Mark Lane.

County Jurisdiction

The County has highway setback jurisdiction over this site as the Town of Hubbard has adopted the Highway Setback Overlay District provisions of the County's Land Use Code.

Appellants Request

On October 2, 2020, a request for a variance to the terms of the Highway Setback Overlay District provisions of the Dodge County Land Use Code was submitted to allow the construction of a residence and attached garage on said lot where said residence will be located approximately 68' from the centerline of Mark Lane or 7' within the required highway setback lines. This is an after the fact variance request as the foundation for the house has been installed on this site prior to the issuance of any County permits.

CONCLUSIONS OF LAW

Based on the facts presented in the application and at the public hearing the Board concludes that:

This is an "after- the- fact" variance request and the Board is required to review this request as if the foundation for the proposed residence does not yet exist.

(Agree / Disagree)

The appellants request to Subsection 4.6.4.A and Table 5.1-1 of the Code is an "area" variance.

(Yes / No)

Is there a physical limitation that is unique to this property that prevents the appellant from complying with the Highway Setback provisions of the code?

(Yes / No)

Are the Highway Setback provisions of the Code unnecessarily burdensome in this case, thereby creating a hardship?

(Yes / No)

Explain: _____

Does the appellant have other options available to construct a complying residence on this lot?

(Yes / No)

Explain _____

What hardship exists if the variance is denied?

Explain _____

Is this project harmful in any way to the public's interests? (Yes/No)

Explain _____

Does the Board have sufficient information to make a decision on this request?

(Yes/No)

Does the Board believe that the appellant's variance request meets the criteria that is necessary in order to grant the variance request?

(Yes/No)

If the Board can make the findings necessary in order to grant the variance request in this case, are any conditions of approval necessary in this case to mitigate any potential adverse impacts that result from this proposed development project?

- N/A
- The appellant shall sign and record a variance agreement with the Dodge County Register of Deeds prior to the issuance of the County Land Use Permit for this residence which allows for the removal of said residence at the expense of the owner whenever Dodge County, or any municipality in which the above described improvement is located deems it necessary to have said improvement removed for the purpose of Highway or Street improvement.
- Others

Motion by _____ to (approve / deny) the variance request to allow the construction of a residence within the required highway setback lines based upon the previously mentioned findings and conditions.

Motion second _____

Vote

Harold Hicks	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present
Jon Schoenike	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present
Sharon Schumann	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present
Larry Dogs	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present
Ed Premo (1 st Alternate)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present
Vacant (2 nd Alternate)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present
William Nass	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present

Motion (Carried / Denied)

ORDER AND DETERMINATION

On the basis of the above findings of fact, conclusions of law and the record in this matter the board

- Granted the variance request as proposed;
- Granted the variance request by the appellant subject to the conditions listed above;
- Denied the variance request as proposed;
- The Land Use Administrator is directed to issue a land use permit incorporating the decision of this Board.

Expiration of Approval Any order issued by the Board requiring a Zoning official to issue a permit shall become void after one year unless the applicant or appellant shall have filed an application for such permit with the Zoning official within such time, provided, that the time may be extended when so specified by the Board.

Revocation. This order may be revoked by the Board after notice and opportunity to be heard for violation of any of the conditions imposed.

Appeals. This decision may be appealed by a person aggrieved by this decision or by any officer, department, board or bureau of the municipality by filing an action in certiorari in the circuit court for this county within 30 days after the date of filing of this decision. The municipality assumes no liability for and makes no warranty as to reliance on this decision if construction is commenced prior to expiration of this 30-day period.

Dodge County Board of Adjustment

Signed _____ Attest _____
Chairperson Secretary

Dated: _____

Filed: _____



**DODGE COUNTY LAND RESOURCES
AND PARKS DEPARTMENT**
127 E. Oak Street • Juneau, WI 53039
PHONE: (920) 386-3700 • FAX: (920) 386-3979
E-MAIL: landresources@co.dodge.wi.us

THIS AREA FOR OFFICE USE ONLY	
Activity No. 200984	Issue Date:
Application Date: 10/2/2020	Receipt #: 1543-001B

Variance Application

Application Fee: ~~\$450~~ (After the Fact Application Fee: \$900) **ATF 900.00**

Names and Mailing Addresses	Property Description														
Applicant (Agent) Trent Fetzer	Parcel Identification Number (PIN) 022-1116-3332-023														
Street Address N746 State Rd Leo	Town Hubbard														
City • State • Zip Code Rubicon WI 53078	<table border="1"> <tr> <td>1/4</td> <td>1/4</td> <td>Section</td> <td>T. 1</td> <td>N</td> <td>R. 1</td> <td>Q.E</td> </tr> <tr> <td>NW</td> <td>SE</td> <td>33</td> <td>20</td> <td></td> <td></td> <td></td> </tr> </table>	1/4	1/4	Section	T. 1	N	R. 1	Q.E	NW	SE	33	20			
1/4	1/4	Section	T. 1	N	R. 1	Q.E									
NW	SE	33	20												
Property Owner (If different from applicant) Same as Applicant	Subdivision or CSM # Lakeside Heights														
Street Address	Site Address N5013 Mark Ln														
City • State • Zip Code	Is this property connected to public sewer? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No														

Present property use:

Residential

List any prior variances that have been granted or denied for this property:

None

Describe all nonconforming structures and uses on this property:

NE Corner of structure is 7ft too close to the road

List the terms of the Land Use Code for which you are requesting a variance (section # and code provision requirements):

5.1.1 — Minimum setback distances for dwellings and other principal structures → Streets and town Roads 75 ft from centerline 42 ft from right of way

Variance Requested:

Allow the 7ft difference to minimum setback of structure.

Address the following variance criteria described in the application materials. (Attach additional sheets if necessary):

What unnecessary hardship is present that prohibits your compliance with the terms of the Land Use Code?

There would be a physical and financial hardship to move the existing and inspected foundation. Excavation, foundation masonry and garage concrete have already been set, inspected and paid for by property owners

What unique features of this property prevent you from complying with the terms of the Land Use Code?

There was a miscalculation of the structure in relation to road curvature. Structure already stands, town resources (inspector's resources, permits etc...) have been used throughout project and would need to be further exhausted if variance isn't granted.

Will denial of the variance request prevent you from using this property for a permitted purpose or render conformity with the Code unnecessarily burdensome? Why?

Denial will result in the property remaining vacant for an extended period of time while funds are recovered to remove existing project and restart. This would be burdensome for both the property owners and neighborhood residents who are forced to look at the unfinished project.

How would the interest of the public or neighbors be affected by granting or denying this variance?

This would be an eyesore to the community if building should have to cease. The home we intend to build is a 1605 sqft ranch that fits in and adds to the overall neighborhood. If variance isn't granted that cannot happen

CERTIFICATE

I hereby certify that I am the owner and/or authorized agent of the property owner and that all the above statements and attachments submitted hereto are true and correct to the best of my knowledge and belief and I hereby authorize members of the Dodge County Land Resources and Parks Department and members of the Dodge County Board of Adjustment to enter the above described property for purposes of obtaining information pertinent to my application/appeal/variance request.

Signature of owner or authorized agent:

Date:

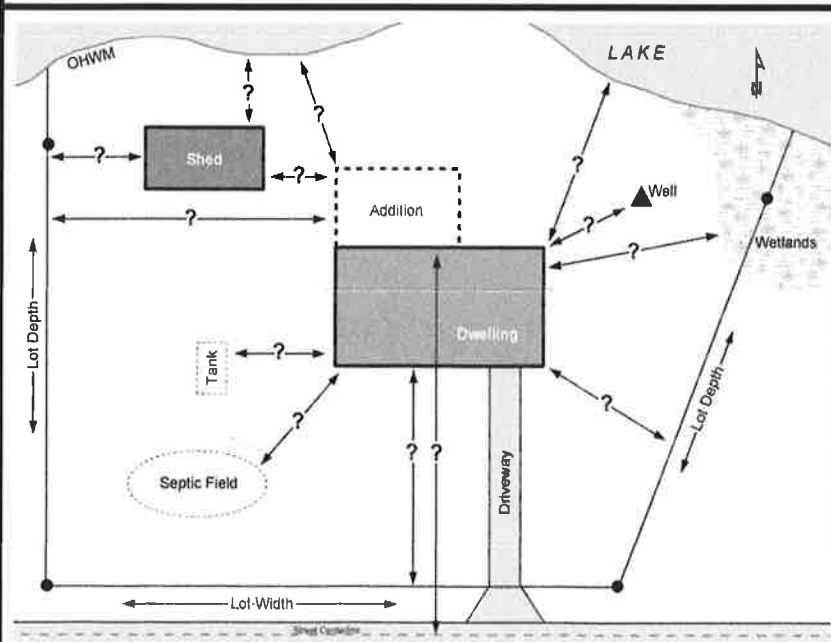
10-07-20

Daytime Contact Number

(262) 229 - 5488

SITE PLANS AND BUILDING PLANS

- All applications must be accompanied by a site plan. Figure 1 below is an example of an acceptable plan.



Site plans must be drawn to scale and/or all dimensions given, such as:

- Location and dimensions of the project
- Location and dimensions of existing structures
- Dimensions of the property
- Location and names of abutting roads, lakes & Streams
- North arrow
- Owner's name

Distances must be shown from the project to:

- Lot lines
- Road right-of-ways & centerline
- Water bodies Ordinary High Water Mark (O.H.W.M.)
- Septic & holding tanks
- Soil absorption systems
- Nearby structures (within 50 feet)



MARK LANE

243'

98'

LOT 3

65'

68ft to center of Road

sewer Hook-up

5ft

1605 sqft

121'

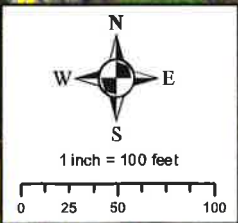
86'

25'

133'

35'

The data used to create this map is a compilation of records, information, and data from various city, county and state offices, and other sources. This map is only as accurate as the data it is based on. Dodge County assumes no liability for any errors or misuse of this information. Only individual lot.



Dodge County Land Resources & Parks

General	WI Historical Society	Floodplain / Wetland	County Zoning
Urbanized Roads	Historic Structures	FEMA Floodplain/Storage/Dam Shadow	Planned Unit Development
Soils	Archaeological Sites	DNR Wetland Areas/Points	Hartford Extraterritorial
Airport Ordinance 3-Mile Buffer	Survey Areas	Shoreland Zoning	General Agricultural
Sewer Service Areas	Non-Metallic Mining	Shoreland Zoning Buffer	Prime Agricultural
Highly Developed Shoreline	Active Mining Area	Lakes/Ponds/Sloughs	One Family Residential
Elevation Contours	Approved Mining Area	Rivers/Streams/Creeks	Two Family Residential
	Mine Property Boundaries		Multi-Family Residential
			General Commercial
			Extensive Commercial
			Light Industrial
			Industrial
			Waterbody
			ROW/City/Village

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