

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

Janet Sayre Hoeft, Chair; Dale Weis, Vice-Chair; Don Carroll, Secretary; Paul Hynek, First Alternate; Randy Mitchell, Second Alternate

PUBLIC HEARING BEGINS AT **1:00 P.M.** ON THURSDAY, SEPTEMBER 9, 2010, ROOM 205, JEFFERSON COUNTY COURTHOUSE

CALL TO ORDER FOR BOARD MEMBERS IS AT 10:15 A.M. IN COURTHOUSE ROOM 203, PRIOR TO THE HEARING

SITE INSPECTION FOR BOARD MEMBERS LEAVES AT 10:30 A.M. FROM COURTHOUSE ROOM 203, PRIOR TO THE HEARING

1. Call to Order-Room 203 at 10:15 a.m.

Meeting called to order by Janet Sayre Hoeft @ 10:23 a.m.

2. Roll Call

Members present: Janet Sayre Hoeft, Donald Carroll

Members absent: Dale Weis

Staff: Laurie Miller, Michelle Staff

3. Certification of Compliance With Open Meetings Law Requirements

Janet Sayre Hoeft acknowledged publication. Staff also provided proof of publication.

4. Review of Agenda

Donald Carroll made motion, seconded by Janet Sayre Hoeft, motion carried 2-0 to approve the review of the agenda.

5. Approval of June 10 and July 8, 2010 Meeting Minutes

Approval of the June 10 and July 8, 2010 meeting minutes was deferred to next month.

6. Site Inspections – Beginning at 10:30 a.m. and Leaving from Room 203

V1342-10 – Adam Zimmerman, N6293 CTH Q, Town of Aztalan
V1344-10 – Terry Schilz, W9458 Golfside Ln., Town of Oakland
V1345-10 – L. A. Wilson, W7722 Blackhawk Island Rd., Town of Sumner
V1343-10 – Caryl Shortridge, N266 Pottawatom Trail, Town of Koshkonong

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

Janet Sayre Hoeft called the meeting to order @ 1:00 p.m.

Members present: Janet Sayre Hoeft, Donald Carroll

Staff: Laurie Miller, Michelle Staff

***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, September 9, 2010 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; decisions shall be rendered after public hearing on the following:

V1342-10 – Adam Zimmerman: Variance from Sec. 11.09(c) of the Jefferson County Zoning Ordinance to exceed 50% of the fair market value of a structure with a proposed addition. The site is at **N6293 CTH Q** in the Town of Aztalan, on PIN 002-0714-1742-011 (0.6 Acres) in a Residential R-2 zone.

Adam Zimmerman presented his petition. There were no questions or comments in favor or opposition of the petition.

Janet Sayre Hoeft questioned the shelter for the well and confirmed that there was no garage on the property. Janet also questioned the square footage. Donald Carroll questioned the petition on the 3 criteria for granting a variance, and if the petitioner would accept a condition that the structure/foundation be to code to support the 2-story garage for safety.

Staff report was given by Michelle Staff. A town response was in the file of no opposition which was read into the record by Donald Carroll.

V1343-10 – Caryl J. Shortridge: Variance from Sec. 11.04(f)7 to exceed the permitted number of animal units in an existing A-3 zone at **N266 Pottawatom Trail**. The site is on PIN 016-0513-3442-001 (4.08 Acres) in the Town of Koshkonong.

Caryl Shortridge presented her petition. There were no questions or comments in favor of the petition. Caryl did present statements from neighbors in favor.

Opposed was Mark Meyer who is an adjoining property owner.

Donald Carroll questioned the petitioner on the 3 criteria for variance, and the DNR reports as the petitioner referred to. Janet questioned the permit application from November 2009 regarding the animal units.

Staff report was given by Michelle Staff. Donald Carroll read into record the decision from the town of opposition which was found in the file.

V1344-10 – Terry Schilz: Variance from Sec. 11.07(d)2 to reduce the centerline setback to permit an addition to the residence at W9458 Golfside Lane in the Town of Oakland. The property is in a Residential R-1 zone on PIN 022-0613-0742-030 (0.24 Acres).

Terry Schilz presented his petition. There were no questions or comments in favor or opposition of the petition.

Donald Carroll questioned the petitioner on the survey in the file.

Staff report was given by Michelle Staff. There was a decision in the file from the town approving this petition, which was noted by Donald Carroll.

V1345-10 – L. A. Wilson: Variance to permit a structure, as defined by the Jefferson County Floodplain Ordinance, within the floodway of the Rock River, which is prohibited per Sec. 14:3.2 – Permitted Uses, and 14:3.3(2) and 14.3.4(1) for a structure not associated with permanent open space uses as listed in 14:3.2. The site is at **W7722 Blackhawk Island Road** in the Town of Sumner, on PIN 028-0513-1333-011 (0.45 Acre) in a Waterfront zone.

Alan Wilson presented this petition on behalf of his father, L.A. Wilson. In favor were Wilma Todd, Kim Farnsworth & Tim Keller. There were no questions or comments in opposition of the petition.

Donald Carroll questioned staff on the definition of a structure and DNR's definition. He questioned the petitioner on whether this would be placed in the R.O.W. Janet Sayre Hoeft questioned the petitioner on if there was a "plan B" to locate the pole. Donald Carroll questioned where there was placement like this at one time.

Michelle Staff gave staff report. Donald Carroll read into the record a response from the town of approval which was found in the file.

8. Decisions on Above Petitions

9. Adjourn

Motion made by Donald Carroll, seconded by Janet Sayre Hoeft, motion carried 2-0 to adjourn @ 3:04 p.m.

If you have questions regarding these matters, please contact the Zoning Department at 920-674-7113 or 920-674-8638.

The Board may discuss and/or take action on any item specifically listed on the agenda.

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

Individuals requiring special accommodations for attendance at the meeting should contact the County Administrator at 920-674-7101 24 hours prior to the meeting so appropriate arrangements can be made.

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

FINDINGS OF FACT

PETITION NO.: 2010 V1342

HEARING DATE: 09-09-2010

APPLICANT: Adam Zimmerman

PROPERTY OWNER: Adam E. & Amy N. Zimmerman

PARCEL (PIN #): 002-0714-1742-011

TOWNSHIP: Aztalan

INTENT OF PETITIONER: To construct a 936 sq. ft. addition to a non-conforming structure exceeding 50% of the Fair Market Value

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:

The applicant is requesting to add an attached garage & rec. room to an existing non-conforming structure. In 1999, the previous owner received a variance (1999 V930) to exceed 50% of the Fair Market Value & a centerline setback. Any modification to the structure would require a variance. The property is located on the corner of CTH B & CTH Q in the hamlet of Aztalan. The structure is located 66' from the centerline of CTH B & approximately 20' from the R.O.W. The new addition will be located 105' from the centerline of CTH Q, and is not going closer to the R.O.W. or centerline of the highway. The structure does not have a garage on the property, & will be behind the existing structure. The septic is located behind this structure.

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 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 ADMINSTRATIVE 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 STANDARDS WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, & THE PUBLIC INTEREST 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 BECAUSE he needs a garage & needs storage because the house has little storage. The second story will be all storage.
- 2. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE 50% of the FMV was used by variance before this owner purchased the property.
- 3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE the addition will not be any closer to the road. The garage is needed.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS **GRANTED.**

MOTION: Janet Sayre Hoeft **SECOND:** Donald Carroll **VOTE:** 2-0

CONDITIONS OF APPROVAL: **The structure is to have adequate footings and foundation.**

SIGNED: _____ **DATE:** 09-09-2010
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.: 2010 V1343

HEARING DATE: 09-09-2010

APPLICANT: Caryl J. Shortridge

PROPERTY OWNER: SAME

PARCEL (PIN #): 016-0513-3442-001

TOWNSHIP: Koshkonong

INTENT OF PETITIONER: To exceed the number of animal units allowed in an
A-3 zone.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f)7 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:

The petitioner currently has 4.08 acres of land which allows 4 animal units. The
petitioner is asking to be allowed to have 10 animal units, specifically 10 goats (1
animal unit), and 9 horses (9 animal units). On November 11, 2009, our department
issued a landuse permit for a horse barn. On the permit, it clearly states "no more
than 1 animal unit per acre" with what equals an animal unit. The owner was aware
of the restrictions before she built the structure. No manure management plan is
listed. The property is also within the wetland & floodplain – a majority of the
property cannot be used for pasturing. This would be a use variance. In order to
grant a use variance, the petitioner must show there is no reasonable use of the
property. The petitioner is allowed 4 animal units. The pasture area for the horses
does not have a lot of ground cover. The intent of the Zoning Ordinance is to
prevent & control water pollution.

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 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 STANDARDS WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, & THE PUBLIC INTEREST VIOLATED.

BASED ON THE FINDINGS OF FACT, THE BOARD CONCLUDES THAT:

- 4. UNNECESSARY HARDSHIP **IS NOT** PRESENT IN THAT A LITERAL ENFORCEMENT OF THE TERMS OF THE ZONING ORDINANCE **WOULD NOT** UNREASONABLY PREVENT THE OWNER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE OR WOULD RENDER CONFORMITY WITH SUCH RESTRICTIONS UNNECESSARILY BURDENSOME BECAUSE it's self-created.
Owner was aware of the livestock allowance allowable. They have use of the property, just not to the extent that they wish.
- 5. THE HARDSHIP **IS NOT** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE they can have animal units, just not the number they are asking.
- 6. THE VARIANCE **WILL** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE it will set a precedent on increase number of livestock units per acre. BOA is not able to take financial burdensome into consideration.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS **DENIED.**

Correction made 11/11/10 with the approval of the minutes, the vote should read 2-0, not 2-1.

MOTION: Donald Carroll

SECOND: Janet Sayre Hoeft

VOTE: 2-1

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ **DATE:** 09-09-2010
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.: 2010 V1344

HEARING DATE: 09-09-2010

APPLICANT: Terry Schilz

PROPERTY OWNER: Terry E. & Susan H. Schilz

PARCEL (PIN #): 022-0613-0742-030

TOWNSHIP: Oakland

INTENT OF PETITIONER: To construct an 8'x30' (240 sq. ft.) open porch at a
a reduced road setback.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.07(d)2 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:

This conforming lot has a road setback of 30' from the R.O.W. & 63' from the
centerline. The proposed porch meets the 30' R.O.W. setback, but does not meet the
centerline setback. The proposed centerline setback is 56' whereas 63' is required.
The petitioners provided a map locating the structures in the area with all centerline
setbacks, but could not reduce the setback due to the fact that the adjacent
properties were set back further away from the road. The road is not traveled within
the R.O.W. There are homes located on this road closer than the required road
centerline setback.

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 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 STANDARDS WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, & THE PUBLIC INTEREST VIOLATED.

BASED ON THE FINDINGS OF FACT, THE BOARD CONCLUDES THAT:

- 7. 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 BECAUSE there's a unique road situation with town and subdivision agreement. An entryway is reasonable to add to the house.
- 8. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE the road placement is not in the center of the road R.O.W. It's owned by the town, but maintained by the association.
- 9. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE it adds to the congenial frontage onto the roadway, and enhances the property value of the subdivision. The houses in the subdivision all have different distances from the road.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS **GRANTED.**

MOTION: Janet Sayre Hoeft **SECOND:** Donald Carroll **VOTE:** 2-0

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ **DATE:** 09-09-2010
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.: 2010 V1345

HEARING DATE: 09-09-2010

APPLICANT: LA Wilson

PROPERTY OWNER: LA,DL,AA Wilson

PARCEL (PIN #): 028-0513-1333-011

TOWNSHIP: Sumner

INTENT OF PETITIONER: To permit a structure, as defined by the Jefferson
County Floodplain Ordinance, within the floodway of the Rock River, which is
prohibited per Sec. 14:3.2

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 14:3.2, 14:3.3(2),
14:3.4(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:

The petitioner would like to place a totem pole within the floodway of the Rock
River which is prohibited & within 10' of the Rock River, whereas the setback is 75'.
The purpose & intent of the Floodplain Ordinance discourages development in a
floodplain. As we have seen in 2008 when flood waters raise, they bring with them
materials, man-made (tanks, decks, etc...) and natural (trees, branches, etc...).
Added structures in the floodplain such as this pole, create obstructions that create
and can get caught on & block flowage, & could create dams in the water flowage.

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

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

