

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, AUGUST 11, 2011, 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 @ 10:38 a.m. by Janet Sayre Hoeft

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

Hoeft acknowledged publication. Staff also presented proof of publication.

4. Review of Agenda

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

5. Approval of July 14, 2011 Meeting Minutes

Carroll made motion, seconded by Hoeft, motion carried 2-0 to approve the July 14, 2011 meeting minutes.

NOTE: As a reminder, Hoeft will not be able to attend the public hearing in September.

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

(Dale Weis present for site inspections @ 10:45)

V1369-11 – Mary Beth Jurczyk, N3440 STH 89, Town of Jefferson

V1370-11 – Bank of Deerfield, N3472 CTH A, Town of Oakland

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

Meeting called to order @ 1:00 p.m. by Janet Sayre Hoeft

Members present: Janet Sayre Hoeft, Donald Carroll, Dale Weis

Members absent: --

Staff: Laurie Miller, Michelle Staff

Hoeft explained procedure.

Carroll read into the record the following:

***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, August 11, 2011 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:

V1369-11 – Mary Beth A Jurczyk: Variance from Sec. 11.09(c) of the Jefferson County Zoning Ordinance to allow a second addition to a non-conforming structure, where a previous variance was required to allow an earlier addition exceeding 50% of the structure's fair market value. The structure is at **N3440 STH 89** in the Town of Jefferson, on PIN 014-0614-2232-001 (3 Acres) in an A-1 Agricultural zone.

Mary Beth Jurczyk presented her petition. The petitioner's contractor, Paul, also presented testimony. There were no questions or comments in favor or opposition of the petition.

There was a town response in the file of approval which was read into the record by Carroll. Staff report was given by Staff.

Carroll asked for clarification of the front porch.

V1370-11 – Bank of Deerfield: Variance from Sec. 11.04(f)7 to sanction placement of an A-3 accessory shed at less than 20 feet from the rear lot line. The site is at **N3472 CTH A** on PIN 022-0613-2142-001 (2.246 Acres) in an A-3, Rural Residential zone.

Kenneth Kranz from the Bank of Deerfield presented the petition. There were no questions or comments in favor of this petition. Opposed was Jeff Gerner.

Staff report was given by Staff. There was a town response in the file which was read into the record by Carroll denying this petition.

Hoelt questioned Gerner if he felt 20' was enough room. Carroll explained the criteria for granting a variance, asked the petitioner to elaborate, and explained their decision was based on the least impact of the ordinance. Hoelt commented on the transfer of land. Weis questioned staff if they could vary from the 2 acres, and commented on the placement of the building. Carroll asked the petitioner if there was anything he'd like to add. The petitioner questioned the use of an easement. Hoelt questioned the acreage.

Carroll read into the record a letter in the file from Jeff & Monica Gerner, opposed.

8. Decisions on Above Petitions (see files)

9. Adjourn

Motion made by Weis, seconded by Hoeft, motion carried 3-0 to adjourn @ 2:00 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 at least 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.: 2011 V1369
HEARING DATE: 08-11-2011

APPLICANT: Mary Beth A. Jurczyk

PROPERTY OWNER: SAME

PARCEL (PIN #): 014-0614-2232-001

TOWNSHIP: Jefferson

INTENT OF PETITIONER: Modifying an existing variance to exceed 50% of a structure's fair market value by adding another addition to the 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:

The structure is non-conforming due to it being only 70 feet from the centerline of STH 89, whereas the required setback is 140 feet from the centerline and 70 feet from the right-of-way. On August 13, 2009, the Board of Adjustment granted a variance to exceed 50% of the fair market value of this structure for an addition totaling 95% of the FMV. In 2011, the FMV of the current structure is \$205,300. The proposed additions will be approximately \$8,000 or 4% of the current FMV.

In 2011, the petitioner is proposing to add a 48 square front porch and a 320 square foot deck to the structure. The proposed porch will not be going closer to STH 89 and will not be encroaching on any setbacks. The structure has already exceeded 50% of the FMV in 2009; therefore must receive additional variances for any additions.

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 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 BECAUSE the porch area will complete the structure. The front porch appears to have had a roof – replacing what was existing. Deck to access the NE patio door will make a safe and useable access.
2. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE the residence existed prior to the zoning ordinance. It's no closer to the highway.
3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE it's a benefit to the area and will complete the structure. It's not encroaching on the highway setbacks. 4% in increase of value is fairly insignificant to the total value of the structure.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Dale Weis **SECOND:** Donald Carroll **VOTE:** 3-0

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ DATE: 08-11-2011
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.: 2011 V1370
HEARING DATE: 08-11-2011

APPLICANT: Bank of Deerfield

PROPERTY OWNER: SAME

PARCEL (PIN #): 022-0613-2142-001

TOWNSHIP: Oakland

INTENT OF PETITIONER: To sanction the placement of an accessory structure too close to a lot line 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:

In 2007, a previous owner of the property was granted a zoning permit for a detached accessory structure to be placed 20 feet from the lot line. In 2011, the neighbor brought it to this department's attention that the structure was too close to the lot line. The Plat of Survey indicates that it is only 14.39 from the lot line & with the overhangs, it is approximately 12.39 feet, whereas the required setback is 20'. The property cannot be added to. In 2006, the previous owner received approval for two, 2 acre non-prime lots, both at 2 acres, leaving one 2 acre non-prime lot along S. Oakland Drive with remaining non-prime lands. In order for the petitioner to add lands, it would need an available non-prime lot to add to the current two acres from the neighboring lands, which it does not have. In addition, reconfiguring the lot will not be feasible because the building to the south is at the required setback of 20 feet.

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 NOT 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 the shed can be altered or moved.
5. THE HARDSHIP **IS NOT** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE it's the circumstances of the applicant/previous owner
6. THE VARIANCE **WILL** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE it's imposing to the immediate neighbor both physically & financially. The purpose of the ordinance is set up for peaceful co-existence. The neighbor objects.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Dale Weis **SECOND:** Janet Sayre Hoeft **VOTE:** 3-0

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ DATE: 08-11-2011
CHAIRPERSON

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