

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 MAY 10, 2012, ROOM 205, JEFFERSON COUNTY COURTHOUSE

CALL TO ORDER FOR BOARD MEMBERS IS AT 10:00 A.M. IN COURTHOUSE ROOM 203, PRIOR TO THE HEARING

SITE INSPECTION FOR BOARD MEMBERS LEAVES AT 10:15 A.M. FROM COURTHOUSE ROOM 203, PRIOR TO THE HEARING

1. Call to Order-Room 203 at 10:00 a.m.

Meeting called to order @ 10:00 a.m. by Janet Sayre Hoeft

2. Roll Call

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

Members absent: ---

Staff: Michelle Staff, Laurie Miller

3. Certification of Compliance with Open Meetings Law Requirements

Hoeft acknowledged publication. Staff also presented proof of publication.

4. Review of Agenda

Weis made motion, seconded by Carroll, motion carried 3-0 to approve the review of the agenda.

5. Approval of April 12, 2012 Meeting Minutes

Carroll made motion, seconded by Weis, motion carried 3-0 to approve the review of the April 12, 2012 meeting minutes.

6. Communications - None

7. Site Inspections – Beginning at 10:15 a.m. and Leaving from Room 203

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

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

Members Present: Hoeft, Carroll, Weis

Members Absent: ---

Staff: Staff, Miller

Procedure was explained by Hoeft.

The following was read into the record by Carroll:

***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, May 10, 2012 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:

V1383-12 – Edward & Caroline Soleska: Variance from Sec. 11.04(f)6 of the Jefferson County Zoning Ordinance which states “A-1 zoned lands transferred from a

parcel of record to another after February 8, 2000 shall not be used to create A-3 lots” and from 11.04(f)8 to exceed the maximum lot area in an A-3 zone over the allowed two acres. The site is in the Town of Jefferson, on **USH 18, across from W4402**, in an A-1 Agricultural zone. It is part of PINs 014-0615-0523-000 (36.451 Acres); 014-0615-0531-001 (11.163 Acres), 014-0615-0532-000 (18.110 Acres) and 014-0615-0532-002 (7 Acres).

Motion made by Carroll, seconded by Weis, motion carried 3-0 to take this petition off the table.

John Kannard presented an addendum to the preliminary survey to the Board and explained. He also presented a map showing restricted mapped parcels and explained the map restrictions on surrounding properties, wetland, and floodplain.

There were no questions or comments in favor of the petition. There was a letter in the file from William and Barbara Schopen opposing the petition which was read into the record by Carroll.

Staff report was given by Staff. Staff questioned the petitioner on the use of land – ag use?

Hoelt questioned the parcel of record in 2000, Exhibit A, page 2, the affidavit dated April 2002, and the purchase (swap of land) in 2002. She also questioned the petitioner on who they felt was responsible to know the restrictions. Carroll commented on the petition and the >1,000’ to the road and the bypass lanes for access to fire trucks. Weis commented on having no title insurance. There was discussion on adverse possession. Carroll confirmed the two variance requests.

Kannard made comment on the possibility of making a 32’ width of lot access. Carroll questioned if they were aware of the maximum lots. Staff commented on the specific requests for variance.

V1386-12 – Douglas & Marcia Piar: Variance from Sec. 11.04(d)4 to allow a fence and patio within 75 feet of the ordinary high water mark of Lake Ripley. The site is at **W9301 Ripley Road** in the Town of Oakland, on PIN 022-0613-0644-104 (0.414 Acres) in a Residential R-1 zone.

Chris Rogers, Attorney for the petitioners, presented the petition. He explained the petitions request and stated this was all built. He went on to explain the three separate structures. Fence: Rogers presented pictures/copies of pictures to the Board and explained. He also presented to the Board a letter from Shoreplace Home Owner’s Association. Shed: Rogers presented pictures/copies of pictures to the board. The shed was expanded from what was there before. They would like to

withdraw their request for variance for the shed and will remove it from the property. Patio: It exists on the same footprint of the older patio. He presented pictures/copies of pictures of the old and new patio which has the same dimensions. He stated they would remove the steps and put them on the side.

There were no questions or comments in favor or opposition of the petition. There was a town response in the file approving the fence & patio only, and that the shed and steps be removed. This was read into the record by Carroll.

Staff report was given by Staff. Staff gave the history of the property and previous permits, noted that the beach is a private beach, and explained that a fence is defined as a structure.

Hoeft questioned staff if DNR was noticed and asked the petitioner how close the house was from the lake. There was a discussion on setbacks. Carroll questioned if the fence would impede the flow of water and if the petitioner agreed with the town to remove the shed and patio area (pavers) leading up to the patio to the lake.

V1387-12 – Dale Christensen: Variance from Sec. 11.04(f)8 to reduce the side yard setback in an A-3 zone from 20 feet to 5 feet. The property, PIN 026-016-3143-002 (1.64 Acres) is at **W2293 STH 106** in an A-3, Rural Residential zone in the Town of Hebron.

A correction was made on the PIN # - it should be 026-0616-3143-002 and should be in the Town of Sullivan.

Dale Christensen presented his petition. He state there was nowhere else to build.

There were no questions or comments in favor or opposition of the petition. There was a response in the file of no objection which was read into the record by Carroll.

Hoeft questioned the property on the other side of the lot line. John Kannard state the neighbor to the west is on the town committee and was fine with it. Carroll questioned the surrounding A-1 lands.

9. Decisions on Above Petitions (See files)

10. Adjourn

Weis made motion, seconded by Hoeft, motion carried 3-0 to adjourn @ 3:06 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.: V1383-12

HEARING DATE: 04-12-2012

APPLICANT: Edward Soleska

PROPERTY OWNER: Edward E. & Caroline M. Soleska

PARCEL (PIN #): 014-0615-0523-000, 014-0615-0531-001, 014-0615-0532-000, &
 014-0615-0532-002

TOWNSHIP: Jefferson

INTENT OF PETITIONER: To create a 3.5 acre A-3 building site with lands
transferred from the parcel of record after the adoption of the 2000 zoning ordinance
and with lands that no longer can be used for A-3 lots. In addition, the proposed lot is
over the maximum of 2 acres allowable in prime soils.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f)6 & 11.04(f) 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:
On July 8, 2010, the Jefferson County Board of Adjustment denied the petitioner this
variance request. The petitioner is proposing a new lot that is utilizing lands that have been
transferred from a parcel of record and that has been previously restrictive to be used for A-3
lots. The split of land proposed for the 66 foot access strip was transferred in 2002 from the
Zeloski farms. The ordinance does not allow lands transferred after the adoption of the
ordinance (March 2000) to be used to create new lots. In addition, Zeloski created the
maximum amount of lots on their lands, and the remaining lands were "frozen" which can
no longer be used for additional A-3 lots. Without these lands being transferred, the
petitioner could not propose a new lot due to the fact that 66 feet is required for access and
frontage, and previously, the petitioner only had 20 feet which he had obtained by court
order in 01/31/1995. In addition, the petitioner is asking for 3.5 acres of prime soils,
whereas the max of 2.0 acres is allowed when there is less than 50 acres of contiguous A-1
zoned lands.

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

PETITION NO.: V1387-12

HEARING DATE: 05-10-2012

APPLICANT: Dale G. Christensen

PROPERTY OWNER: SAME

PARCEL (PIN #): 026-0616-3143-002

TOWNSHIP: Sullivan

INTENT OF PETITIONER: Reduce the side yard setback from 20 feet to 5 feet

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f)8
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 is proposing a 22' x 30' (660 sq. ft.) detached accessory building within five (5) feet of the west lot line whereas the 20 feet is the required setback. The lot is 1.6 acres and currently has a single family residence with attached garage and a detached accessory structure. The original new home permit had the septic system in back of the residence, but later a new soil test was conducted and the septic system was moved to the front of the residence. In 1992, the petitioner built a new home meeting all setbacks. In 1998, the petitioner built a 30' x 26' (780 sq. ft.) detached accessory structure meeting all setbacks. The current attached garage is 21' x 26' (546 sq. ft.). It appears the current detached structure could have an addition meeting all setbacks. When reviewing the permits and the current GIS mapping, it appears there may be a discrepancy on the lot lines. Petitioner was aware of the 20 foot setback while constructing all structures on the property and has reasonable use of the property with a single family residence, a 546 sq. ft. attached garage and a 780 sq. ft. detached 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 NOT 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 they need the additional storage.
Also because of the slope & available area.
- 8. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE of the slope and available area – it’s difficult to site a building.
- 9. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE the best interest of the community is being served.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Motion was made by Weis to approve a setback of 10’ to the property lines, seconded by Carroll. Motion carried with a 3-0 vote.

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ DATE: 05-10-2012
CHAIRPERSON

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