

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

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

PUBLIC HEARING BEGINS AT **1:00 P.M.** ON THURSDAY, JULY 10, 2008
ROOM 205, JEFFERSON COUNTY COURTHOUSE

CALL TO ORDER FOR BOARD MEMBERS IS AT 10:45 A.M. IN COURTHOUSE
ROOM 203, PRIOR TO THE HEARING

SITE INSPECTION FOR BOARD MEMBERS LEAVES AT 11:00 A.M. FROM
COURTHOUSE ROOM 203, PRIOR TO THE HEARING

1. Call to Order-Room 203

Meeting called to order @ 10:50 by Donald Carroll, Chair

2. Roll Call

Members present: Donald Carroll, Janet Sayre Hoeft, Paul Hynek

Members absent: Dale Weis

Staff: Rob Klotz, Laurie Miller

3. Certification of Compliance With Open Meetings Law Requirements

Rob Klotz acknowledged publication.

4. Review of Agenda

Janet Sayre Hoeft made motion, seconded by Paul Hynek, motion carried 3-0 to approve the review of the agenda as presented.

NOTE: Rob Klotz requested that #9 on the agenda be postponed. The committee will address this issue after the hearing.

5. Approval of June 12, 2008 Meeting Minutes

Janet Sayre Hoeft made motion, seconded by Paul Hynek, motion carried 3-0 to approve the minutes.

6. Site Inspections – Beginning at 11:00 a.m. and Leaving from Room 203

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

Meeting called to order @ 1:00 p.m. by Donald Carroll, Chair

Members present: Donald Carroll, Janet Sayre Hoeft, Paul Hynek

Members absent: Dale Weis

Staff: Rob Klotz, Bruce Haukom, Laurie Miller

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, July 12, 2008 in Room 205 of the Jefferson County Courthouse, Jefferson, Wisconsin. Matters to be heard are an application 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. **PETITIONER, OR HIS REPRESENTATIVE, SHALL BE PRESENT.** There may be a site inspection prior to public hearing; a decision shall be rendered after public hearing on the following:

V1273-08 – Jason Dey: In accordance with sections 11.07(d), 11.09 and 11.10(d) of the Jefferson County Zoning Ordinance, variance to construct an addition to a non-conforming structure that exceeds 50% of the fair market and equalized assessed values, and which will also be closer than 75 feet to Deer Creek, and closer than 85 feet from the centerline and closer than 50 feet from the right-of-way of Curtis Mill Road. Additional variances may also be required upon submittal of a flood study for the property. The site is at **W5332 Curtis Mill Road** in the Town of Jefferson, on PIN 014-0614-2641-003 (3.81 Acres).

Jason Dey presented his petition. Ann-Marie Kirsch from Montgomery Associates also spoke on the work they are doing to assist the petitioner.

There were no questions or comments in favor or opposition of this petition. Janet questioned if anyone was living there. Paul questioned the footprint of the house, flooding of the property, drain tile, square footage of the addition, and protection of the slope of the creek. Don questioned the flooding, pile wood debris, and stability issues of creek flooding. Paul commented on the foundation work to support the addition. Don was concerned about the flooding, abutments, and rip-rap. He also questioned the square footage if over the existing living space or garage, and height of the building. Paul questioned the foundation and rebuilding. He asked the petitioner to explain the 3 points of the variance requirements. Paul also questioned the living quarters and basement.

The approval response from the town, which was in the file, was read into the record by Paul Hynek.

8. Decision on Above Petition

9. Items for Discussion and Possible Action

Motion was made by Paul Hynek, seconded by Janet, motion carried 3-0 to allow staff as much time as needed to provide the committee with additional information on the following:

- a. **Notice to be Added to Variance Application Regarding Who May Attend Site Inspections**
- b. **Decision Process**
- c. **Statement to be Added to Decision Form Regarding Completeness of Taped Decision vs. Written Decision**

10. Adjourn

Janet Sayre Hoeft made motion, seconded by Paul Hynek, motion carried 3-0 to adjourn @ 2:03 p.m.

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 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 HERE 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 IS 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 of the location & unusual water conditions & the need to fill the lower level. Also because of the location of Deer Creek and the R.O.W. Placement of the house exists on the highest area of the property.

- 2. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE the topography is such that the house is at the highest point of the property, there is no higher ground. The location of the well & septic cause no problems, there is no other place, however, to put a house.

- 3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE it will be a safer structure & more habitable, will increase the interest of the surrounding area. It will be a better house. It's a residential type area with a subdivision on the other side of the road.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Paul Hynek **SECOND:** Donald Carroll **VOTE:** 2-1

Janet Sayre Hoeft was opposed to this petition for the following reasons: Felt that although it was not an ideal situation, the structure was still livable. She was in agreement that there are physical limitations to the property; however was concerned about the flood situation on the property.

CONDITIONS OF APPROVAL:

- 1) Conditioned upon licensed engineer assuring stability of the creek retaining and rip-rap.
- 2) The lower level to be filled to 2' above the 100 year flood level.
- 3) A structure engineer study to ascertain the ability to sustain the added 2nd level of the structure.

SIGNED _____ DATE 07-10-2008
CHAIRPERSON

BOARD DECISIONS MAY BE APPEALED TO CIRCUIT COURT.