

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT
REVISED 8/11/09

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, AUGUST 13, 2009
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

Paul Hynek made motion, seconded by Donald Carroll, motion carried 3-0 to have Janet Sayre Hoeft chair today's meeting.

Meeting called to order by Janet Sayre Hoeft @ 10:25 a.m.

2. Roll Call

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

Members absent: Dale Weis

Staff: Rob Klotz, Laurie Miller

3. Certification of Compliance With Open Meetings Law Requirements

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

4. Review of Agenda

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

5. Approval of July 9, 2009 Meeting Minutes

Donald Carroll made motion, seconded by Paul Hynek, motion carried 3-0 to approve the minutes.

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

V1311-09 – Paul Matusiewicz/Mary Beth A. Jurczyk Property, N3440 STH 89, Town of Jefferson

V1313-09 – Paul Stremick, N4561 Circle Dr, Town of Oakland

V1312-09 – Sally Jones & Susan Meyers, W8178 Elm Point Rd, Town of Lake Mills

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

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

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

Members absent: Dale Weis

Staff: Rob Klotz, 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, August 13, 2009 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:

V1311-09 – Paul Matusiewicz/Mary Beth A Jurczyk Property: Variance to construct an addition to a non-conforming structure in excess of 50% of its fair market value in accordance with Sec. 11.09(c) of the Jefferson County Zoning Ordinance. The site 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. There were no questions or comments in favor or opposition of this petition.

Janet Sayre Hoeft questioned the petitioner on review of her petition with the town. She also questioned the FMV of the existing structure and the \$130,000 cost of the addition/repairs. Donald Carroll questioned the dollar amount in percentage of interior/exterior work being done. Paul Hynek questioned the septic paperwork and the septic location. He also questioned the highway classification for STH 89 and hardship. Donald Carroll questioned the addition being <50%.

Staff report was given by Rob Klotz. The town did not take action on this petition per record in the file and read into the record by Donald Carroll.

V1312-09 – Sally Jones & Susan Meyers: Variance to construct an addition to a non-conforming structure in excess of 50% of its equalized assessed value and its fair market value in accordance with Sec. 11.09(ec) and 14:6.0 of Jefferson County ordinances. The structure is non-conforming due to its location on the property and because it is currently in mapped floodplain. The property is identified as PIN 018-0713-1544-004 (0.28 Acre) at **W8178 Elm Point Road** in the Town of Lake Mills in a Residential R-1 zone.

This petition was presented by Sally Jones. Margaret Krueger (neighbor) was in favor. Also in favor was Matthew Meyers. There were no questions or comments in opposition of this petition.

Donald Carroll questioned the 2 lots and the salability. Paul Hynek questioned proposed single story addition. He also had questions on drainage problems, the house to the east, and the elevation of this house versus the house to the east. Paul also questioned if there was a basement, if the crawl space was at ground level or below grade, and if there was water drainage into the crawl space as well as drainage into a crock. Michelle Staff explained. Janet Sayre Hoeft questioned the location being too close to the road and lake, and the FMV.

Rob Klotz gave staff report. Michelle staff also provided information on shoreland restoration and the buffer agreement. A town response was in the file, and was read into the record by Janet Sayre Hoeft.

V1313-09 – Paul Stremick: Variance to allow an addition to a residence in an R-1 zone which would exceed 30% lot coverage, variance for rear lot line setback and variance to exceed 50% of structure's fair market value if non-conforming in accordance with Sec. 11.04(f)1 and 11.09(c). The site is at **N4561 Circle Dr** in the Town of Oakland, on PIN 022-0613-0533-037 (0.114 Acre) and 022-0613-0533-038 (0.114 Acre).

Paul Stremick presented his petition. In favor was Joann Gomer. There were no questions or comments in opposition of this petition.

Janet Sayre Hoeft questioned the petitioner if they had been to the town. Janet also questioned if the addition was coming closer to Circle Dr., and the FMV. Donald Carroll questioned the placement of the addition over the 2nd lot. Paul Hynek questioned the 1 story addition and what the use of the addition was. (Petitioner presented a sketch to the board). Addition is coming off circle Dr.

8. Decisions on Above Petitions (See following pages & files)

9. Adjourn

Paul Hynek made motion, seconded by Donald Carroll, motion carried 3-0 to adjourn @ 3:05.

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.: V1312-09
HEARING DATE: 08-13-2009

APPLICANT: Sally Jones

PROPERTY OWNER: Sally Jones & Susan Meyers

PARCEL (PIN #): 018-0713-1544-004

TOWNSHIP: Lake Mills

INTENT OF PETITIONER: Variance to allow construction of an addition to a
 non-conforming structure in excess of FMV & EAV. Residence is non-conforming
 due to setbacks & location in the floodplain.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.09(c), 14:6.0
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:

 Published for variance to Sec. 11.09(e) – should be 11.09(c)
 R-1 zoned - sewerd
 Unstudied floodplain – new FIRM/FEMA maps show house in
 Engineer elev. – DNR – used 830 – elevation for maps
 2' contours do no match
 See Abex Survey info including old DNR study

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Property layout &
 location

FACTS PRESENTED AT PUBLIC HEARING: See tape & minutes

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** 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 zoning recognizes the 2 lots as 1. Also, because of the changes in the zoning ordinances, zoning restricts a separate building on the vacant lot.
- 5. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE it cannot be a stand-alone lot due to zoning ordinance regulations. Vacant lot is not buildable.
- 6. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE it will add to the protection of water drainage into the lake by addition a buffer strip, & will protect other natural resources. It can meet shoreline restriction setbacks. It will not be closer to traffic. The addition will be lower than the house to the east.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Paul Hynek **SECOND:** Donald Carroll **VOTE:** 3-0

CONDITIONS OF APPROVAL: **The shoreland permit & buffer agreement is executed.**

SIGNED: _____ **DATE:** _____
s/Janet Sayre Hoeft, 08-13-2009
ACTING 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.: V1313-09
HEARING DATE: 08-13-2009

APPLICANT: Paul Stremick

PROPERTY OWNER: SAME

PARCEL (PIN #): 022-0613-0533-037 & 022-0613-0533-038

TOWNSHIP: Oakland

INTENT OF PETITIONER: Variance to allow over 50% lot coverage with proposed
 addition to residence. Addition to be 11' from rear lot line & will exceed 50% of FMV
 if structure is considered non-conforming.

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

 11.04(f) – rear lot line setback for standard lot – 255

 - 30% lot coverage maximum by structures

 Need centerline setback – Circle Dr. to determine existing structure’s conformity

 Proposed plan in file – how is town treating platted ROW’s?

 R-1 sewerred – may be within 1,000’ of lake

 Standard lot – 63’ centerline & 30’ ROW – Circle Dr. & platted
 - 25’ rear, 10’ side setbacks, town road

 Substandard – 25’ ROW (Circle Dr.), 10’ (2nd road), 15’ rear, 5’ side

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Property layout &
 location

FACTS PRESENTED AT PUBLIC HEARING: See tape & minutes

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 a change in the zoning ordinance prohibits the sale of the 2nd substandard lot – zoning considers them as 1 lot which was formally 2 separate lots.
- 8. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE of the zoning ordinance change which limits the physical use of the property. The rear yard setback abuts an ill-defined ROW(15' setback), satisfying the rear setback requirements.
- 9. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE the unusual location of the property indicates exceeding the 30% lot coverage of the lot by 1%(+-) would have no impact on drainage (park across the street).

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:** 3-0

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: s/Janet Sayre Hoeft **DATE:** 08-13-2009
ACTING CHAIRPERSON

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