

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

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

PUBLIC HEARING BEGINS AT **1:00 P.M.** ON THURSDAY, NOVEMBER 12, 2009, ROOM 205, JEFFERSON COUNTY COURTHOUSE

CALL TO ORDER FOR BOARD MEMBERS IS AT 9:45 A.M. IN COURTHOUSE ROOM 203, PRIOR TO THE HEARING

SITE INSPECTION FOR BOARD MEMBERS LEAVES AT 10:00 A.M. FROM COURTHOUSE ROOM 203, PRIOR TO THE HEARING

1. Call to Order-Room 203

Meeting called to order by Janet Sayre Hoeft @ 9:47 a.m.

2. Roll Call

Members Present: Janet Sayre Hoeft, Donald Carroll, Randall Mitchell

Members Absent: Dale Weis

Staff: Rob Klotz, Laurie Miller, Michelle Staff

3. Certification of Compliance With Open Meetings Law Requirements

Janet Sayre Hoeft acknowledged publication. Staff confirmed publication.

4. Review of Agenda

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

5. Approval of August 13 and October 8, 2009 Meeting Minutes

Donald Carroll made motion, seconded by Janet Sayre Hoeft, motion carried 2-0 to approve the August 13, 2009 meeting minutes. (Randall Mitchell was not present at this meeting, and therefore, did not vote.)

Randall Mitchell made motion, seconded by Janet Sayre Hoeft, motion carried 2-0 to approve the October 8, 2009 meeting minutes. (Donald Carroll abstained from vote due to not being present at this meeting.)

6. Election of Officers

The election of officers was deferred to next month's meeting when all members are present.

7. Site Inspections – Beginning at 10:00 a.m. and Leaving from Room 203

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

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

Members Present: Janet Sayre Hoeft, Randall Mitchell, Donald Carroll

Members Absent: Dale Weis

Staff: Rob Klotz, Laurie Miller, Michelle Staff

Attorney Scott Scheibel was also present.

***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, November 12, 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:

V1317-09 – Eric Gillam/Earnest & Debra Gillam Property: Variance from Sec. 14:4.3 of the Jefferson County Floodplain Ordinance regarding standards for development in floodfringe, Sec. 14:6.0 regarding a non-conforming structure, Sec. 14:6.1(2)(d) to exceed 50% of the structure's present equalized assessed value without dry land access, and Sec. 14:7.3(4) regarding variance standards, all to allow reconstruction of the residence at **W7762 Lamp Rd.** The site is in the Town of Sumner, on PIN 028-0513-1144-001 (0.147 Acre), in a Waterfront zone.

Eric Gillam presented this petition. There were no questions or comments in favor or opposition.

Donald Carroll questioned if the petitioner had the notice and asked that he address the 3 standards to grant a variance. Donald also commented on the structure being removed and the responsibility of the owner. Janet Sayre Hoeft commented on the variance being a dryland access issue and emergency services concerns. Janet questioned if they had a letter from emergency services and whether there was a natural disaster plan. Randall Mitchell questioned the petitioner on who tore the structure down.

Attorney Scott Scheibel questioned the definition of non-flood disaster. Staff report was given by Rob Klotz. There was a response from the town of approval, and was read into the record by Janet Sayre Hoeft.

V1318-09 – Cynthia Bueneman: Variance from Sec. 11.10(d)1. of the Jefferson County Zoning Ordinance to sanction a deck within the 75-foot minimum setback from the ordinary high water mark of Lake Koshkonong. The site is in the Town of Sumner, at **W7861 High Ridge Rd,** on PIN 028-0513-1142-019 (0.11 Acre) in a Waterfront zone.

Cynthia Bueneman presented her petition. In favor were Ken Zolper & Ralph Fuller. There were no questions or comments in opposition of this petition.

Janet Sayre Hoeft questioned the shoreland buffer/restoration. Donald Carroll questioned the petitioner on not having a permit, but that the deck was constructed anyway. Randall Mitchell questioned the stairway addition. Janet Sayre Hoeft questioned the distance from the house and the property line. Donald Carroll questioned the width of the deck on the east side.

Michelle Staff gave staff report. Donald Carroll read into the record the minutes from the town meeting recommending approval.

V1319-09 – Dale A Weis Trust: Variance from Sec. 11.03(d)1. of the Jefferson County Zoning Ordinance and from Sec. 15.04(c) of the Jefferson County Land Division and Subdivision Ordinance to allow a proposed Natural Resource zone outlot to be served by a 20-foot easement rather than by the required 66-foot frontage on and access to a public road. The site is **across from W3920 USH 18** in the Town of Jefferson on PINs 014-0615-0421-000 (29.57 Acres) and 014-0615-0424-000 (20 Acres), currently zoned A-1 Agricultural.

This petition was presented by Dale Weis. There were no questions or comments in favor or opposition of this petition.

Janet Sayre Hoeft questioned structures in the Natural Resource Zone. She also questioned filling/dredging and approval for rezoning as well as previous situations and approvals. Donald Carroll questioned the petitioner if he had objections to conditions, if approved, of the rezoning approval.

Staff report was given by Rob Klotz. There was a response of approval from the town in the file and read into the record by Janet Sayre Hoeft.

V1320-09 – Larry Pfaffenbach/A Pfaffenbach (LE) Property: Variance from Sec. 11.04(f)1. of the Jefferson County Zoning Ordinance to exceed 30% lot coverage by principal and accessory structures and Sec. 11.09(c) to exceed 50% of a structure's fair market value. The site is on PIN 018-0713-2321-012 (0.112 Acre) at **376 Sandy Beach Rd** in the Town of Lake Mills.

Larry Pfaffenbach presented his petition. There were no questions or comments in favor or opposition of this petition.

Janet Sayre Hoeft questioned the percentage of lot coverage. Donald Carroll questioned if the applicant was opposed to a condition on the construction of the driveway as was proposed. Janet Sayre Hoeft questioned a shared meter.

Staff report was given by Michelle Staff. There was a response from the town in the file of no objection which was read into the record by Janet Sayre Hoeft.

9. Decisions on Above Petitions (See tape & files)

10. Adjourn

Janet Sayre Hoeft made motion, seconded by Randall Mitchell, motion carried 3-0 to adjourn @ 3:45 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
*(CORRECTED DECISION 11/19/2009)**

PETITION NO.: 2009 V1317
HEARING DATE: 11-12-2009

APPLICANT: Eric Gillam

PROPERTY OWNER: Earnest E. & Debra K. Gillam

PARCEL (PIN #): 028-0513-1144-001

TOWNSHIP: Sumner

INTENT OF PETITIONER: To rebuild a residence in the floodplain without
dry land access

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 14:6.0, 14:4.3,
14:6.1(d), 14:7.3(4) 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:
Property is located in the floodplain without dry land access

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Cottage has been removed from the property.

FACTS PRESENTED AT PUBLIC HEARING: Jefferson County Emergency
Management letter, DNR letter

See also 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:

- 1. UNNECESSARY HARDSHIP **IS NOT** PRESENT IN THAT A LITERAL ENFORCEMENT OF THE TERMS OF THE ZONING ORDINANCE **WOULD *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 was due to the action of the applicant & because of the health & safety of emergency services due to flooding. There is no permitted purpose – the structure is gone & is in the floodplain as dictated by the Jefferson County Floodplain Mitigation Program. The proper permitting processes were not followed.
- 2. THE HARDSHIP **IS NOT** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE it's in the floodplain. The owner had control of the situation & did not follow procedure. Had the petitioner not created the vacant lot, the pre-existing structure could have been restored.
- 3. THE VARIANCE **WILL** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE it's a safety hazard to the general public & emergency personnel, and is contrary to the county's Flood Mitigation Program. Also because of no dryland access & will reduce safety hazards exposure to emergency personnel.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Donald Carroll **SECOND:** Janet Sayre Hoeft **VOTE:** 3-0

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ s\Janet Sayre Hoeft _____ **DATE:** 11-12-2009
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.: 2009 V1318
HEARING DATE: 11-12-2009

APPLICANT: Cynthia A. Bueneman

PROPERTY OWNER: SAME

PARCEL (PIN #): 028-0513-1142-019

TOWNSHIP: Sumner

INTENT OF PETITIONER: After-the-fact variance for a 12'x30' deck with access
stair larger than 4' wide too close to the ordinary high water mark of Lake
Koshkonong

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.10(d)(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:

Owner could have 4' walkway to access doors and stairway only 4'

Current deck is the entire length of the house & beyond. In addition is 12' from
house towards lake

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Floodplain, deck too close to lake

After-the-fact

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 of the small size of the lot. Needed 2 accesses to the house which has been elevated.
- 5. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE they need access to the home. The lake is closer. Also because of the small lot size & footprint of the existing structure.
- 6. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE the house needed reasonable access of ingress/egress. Because of raising the structure, it provides a safer means of access to the structure. The deck is elevated to prevent future flood damage.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Janet Sayre Hoeft **SECOND:** Randall Mitchell **VOTE:** 3-0

CONDITIONS OF APPROVAL: The petitioners must comply with shoreland restoration and improvements and the 35' buffer requirements.

SIGNED: _____ s\Janet Sayre Hoeft **DATE:** _____ 11-12-2009
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.: 2009 V1319

HEARING DATE: 11-12-2009

APPLICANT: Dale Weis Trust

PROPERTY OWNER: SAME

PARCEL (PIN #): 014-0615-0421-000 (29.57A) & 014-0615-0424-000 (20.0A)

TOWNSHIP: Jefferson

INTENT OF PETITIONER: Variance to allow a Natural Resource Zone served by a 20' easement rather than the required 66' frontage on & access to a public road.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.03(d)1 & 15.04(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:

Lands are wetland & floodplain

DNR lands are adjacent to the land

Natural Resource Zone does not allow residential structures

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: State access approval for A-1 piece which would have the 20' easement on. Currently access is only for one lot & for agricultural purposes.

FACTS PRESENTED AT PUBLIC HEARING: See tape & minutes

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

FINDINGS OF FACT

PETITION NO.: 2009 V1320

HEARING DATE: 11-12-2009

APPLICANT: Larry Pfaffenbach

PROPERTY OWNER: A. Pfaffenbach (LE)/Larry L. Pfaffenbach

PARCEL (PIN #): 018-0713-2321-012 (.112A)

TOWNSHIP: Lake Mills

INTENT OF PETITIONER: Remove existing detached garage and build a new
20'x20' detached garage addition and a 20'x16' addition to the back of a non-
conforming structure. Adding a deck to the front of the cottage towards the road
of 15'x10'.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.09 (c) & 11.04(f)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:

Addition is not going any closer than the existing structure to the lot line

Detached garage meets setbacks

Deck meets setbacks

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS:

Buildings cover 1,600 sq. ft. – lot is 4,4882 sq. ft. = 33% lot coverage

Improvement value is \$28,300 – Proposed addition approx. \$40,000 (over 50%)

FACTS PRESENTED AT PUBLIC HEARING: See tape & minutes

