

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, JUNE 11, 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 @ 9:49 a.m. by Donald Carroll, Chair

2. Roll Call

Members Present: Donald Carroll (Chair), Janet Sayre Hoeft, Dale Weis (present @ 9:55 a.m.)

Members Absent: --

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

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

5. Approval of May 14, 2009 Meeting Minutes

Note: There was a delay in approval until an appropriate quorum was present. Dale Weis was present at 9:55 a.m. Donald Carroll abstained from vote as a result of not being present for this hearing.

Janet Sayre Hoeft made motion, seconded by Dale Weis, motion carried 2-0 to approve the minutes.

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

V1302-09 – Hoffman Construction/James & Sandra McManama property, near Ornis Road & CTH T, Town of Watertown

V1301-09 – Hoffman Construction/Wieda Christian property, near STH 19 and Ornis Road, Town of Watertown

V1299-09 – Ed Wollin/Marjory Wollin property at W6520 North Wollin Road, Town of Milford

V1303-09 – Hoffman Construction/William Stade property, near STH 26 & STH 26 Bypass, Town of Jefferson

V1304-09 – Hoffman Construction/Marles L. Staude Trust and Scott & Deborah Lundy property, near N3384 STH 89, Town of Jefferson

V1300-09 – 2K Land Company, LLC, N2661 CTH F, Town of Sullivan

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

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

Members present: Donald Carroll (Chair), Janet Sayre Hoeft, Dale Weis

Members absent: --

Staff: Rob Klotz, 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, June 11, 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:

V1299-09 – Ed Wollin/Marjory Wollin Property: Variance from Section 11.04(f)7.g of the Jefferson County Zoning Ordinance to allow more than one animal unit per acre on a previously approved A-3 lot, for a period not to exceed five years. The site is at **W6520 N. Wollin Rd.** in the Town of Milford, on PIN 020-0814-3244-002 (25 Acres).

Ed Wollin presented his petition. There were no questions or comments in favor or opposition of this petition.

Janet Sayre Hoeft made comment of hardship versus personal circumstances. Dale Weis questioned ownership of the properties or possible future sale of the property.

Staff report was given by Rob Klotz. Per petitioner, the town had approved his petition. Also read into the record by Dale Weis was an approval in the file from the town.

V1300-09 – 2K Land Company, LLC: Variance from Sec. 11.09(c) to allow an addition, exceeding 50% of the current fair market value, to an existing non-conforming structure. The property is in the Town of Sullivan at **N2661 CTH F**, on PIN 026-0616-3231-000 (35.123 Acres) in an A-1 Agricultural zone.

David Kamber presented his petition. There were no questions or comments in favor or opposition of this petition.

Dale Weis commented on the septic. Donald Carroll questioned a possible upgrade of the septic. Janet Sayre Hoeft questioned the value of the existing house and the cost of improvements. Dale Weis questioned the garage doors and the 1 driveway being eliminated.

Rob Klotz gave staff report.

V1301-09 – Hoffman Construction/Wieda Christian Property: Variance from Section 11.05(c)7 to allow mineral extraction within 50 feet of a lot line. The site is in an A-1 Agricultural zone, on PIN 032-0814-0122-000 (21.1 Acres) near **STH 19 and Ornis Rd.** in the Town of Watertown.

Frank Laufenberg from Hoffman Construction presented this petition. There were no questions or comments in favor or opposition of this petition.

Donald Carroll questioned the proposed and/or existing ROW. Dale Weis questioned the RR ROW. Janet Sayre Hoeft questioned notification of DOT. Dale Weis commented on the railway and questioned if it was a truck site.

Rob Klotz gave staff report. Mary Horack from the Town of Watertown stated they did not come to the town, but there were concerns of the road usage.

NOTE: The Committee re-opened the 2K petition for town response. No one was present from the town, and no information was in the file on a town's decision.

V1302-09 – Hoffman Construction/James & Sandra McManama Property: Variance from Section 11.05(c)7 to allow mineral extraction within 50 feet of a lot line. The site is in an A-1 Agricultural zone, on PIN 032-0814-0122-002 (20 Acres) near **Ornis Rd. & CTH T** in the Town of Watertown.

Frank Laufenberg from Hoffman Construction presented this petition. There were no questions or comments in favor or opposition of this petition.

Janet Sayre Hoeft questioned mineral extraction time limits.

Rob Klotz gave staff report. Mary Horack from the Town of Watertown stated the town's position was the same as the Christian petition (see above).

V1303-09 – Hoffman Construction/William Stade Property: Variance from Section 11.05(c)7 to allow mineral extraction within 50 feet of a lot line. The site is in an A-1 Agricultural zone, on PINs 014-0614-2211-001 (21.4 Acres), 014-0614-2212-000 (19.553 Acres), 014-0614-2213-000 (38.747 Acres) and 014-0614-2224-000 (40 Acres) near **STH 26 and the STH 26 Bypass** in the Town of Jefferson.

Frank Laufenberg from Hoffman Construction presented this petition. There were no questions or comments in favor or opposition of this petition.

There were no questions from the Board. Rob Klotz gave staff report. Dale Weis read into the record the written response from the town which indicated no paperwork was received for this petition, and no hearing was held, but they wanted input.

V1304-09 – Hoffman Construction/Marles Staude Trust and Scott & Deborah Lundy Properties: Variance from Section 11.05(c)7 to allow mineral extraction within 50 feet of a lot line. The site is near **N3384 STH 89** in the Town of Jefferson, on PINs 014-0614-2231-001 (15 Acres) and 014-0614-2234-000 (41.185 Acres) in an A-1 Agricultural zone.

Frank Laufenberg from Hoffman Construction presented this petition. There were no questions or comments in favor or opposition of this petition.

Dale Weis questioned RSV Engineering recommendations. Janet Sayre questioned the property owners involved. Dale Weis questioned if this was adjacent to the Stade property.

Staff report was given by Rob Klotz. There was a written response in the file from the town in favor of this petition, read into the record by Dale Weis.

8. Decisions on Above Petitions

9. Adjourn

Motion made by Dale Weis, seconded by Janet Sayre Hoeft, motion carried 3-0 to adjourn @ 3:05 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.

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.: 2009 V1299
HEARING DATE: 06-11-2009

APPLICANT: Ed Wollin

PROPERTY OWNER: Marjory Wollin

PARCEL (PIN #): 020-0814-3244-002

TOWNSHIP: Milford

INTENT OF PETITIONER: Keeping existing livestock on a proposed A-3 (2.0A) lot
for a period of 5 yrs. or less

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f)7g 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:

2 acres proposed A-3 lot where existing animal shed is located

Estate plan from mother to 2 brothers

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

FACTS PRESENTED AT PUBLIC HEARING: Wants cattle on premises for 5 yrs.
Has plans to build storage structure on A-1 land in the future.

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** 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 are allow the A-3 split which conforms with the ordinance. The use has been consistent, & is a family operation. The current barn is on the A-3 split, & could not be a part of the A-1 land remaining. The existing road setback & wet zone (topography) limits the property.

NOTE: Janet Sayre Hoeft was opposed to the variance request due to the petitioner's not meeting this criteria of hardship based on statements/comments by the petitioner, both oral & written, that this is a personal financial situation rather than based on the limitations of the property.

2. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE due to conflict of zoning rules (allowed the split, but not allowed to keep the use). The land had been rezoned while the current use of the calving operation existed, & will terminate as per the conditions of this approval. The land owned around this property is owned by the family, & the use will only be for 5 years.
3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE as long as it remains as a family unit, it will not affect the public interest. There was an approval from the town.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Dale Weis **SECOND:** Donald Carroll **VOTE:** 2-1

CONDITIONS OF APPROVAL: Subject to the conditions that the property owners and/or ownership of livestock remain, as presented by the petitioner in hearing, for period not to exceed 5 years.

SIGNED: _____ **DATE:** 06-11-2009
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 V1300

HEARING DATE: 06-11-2009

APPLICANT: 2K Land Co, LLC

PROPERTY OWNER: Dave Kamber (2K Land Co, LLC)

PARCEL (PIN #): 026-0616-3231-000

TOWNSHIP: Sullivan

INTENT OF PETITIONER: Allow an addition exceeding 50% of the current FMV to an existing non-conforming residence.

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:

- Addition - 75' from CTH F centerline
- Existing residence @ approx. 40' to ROW
- CTH F minimum setback – 110' to centerline & 50' to ROW
- Non-conforming structure (residence)

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

FACTS PRESENTED AT PUBLIC HEARING: Wants more living space for family. Adding 2 bedrooms, a bathroom, and a small living area.

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 circumstances of today require that zoning & sanitary conditions are met. It will not disturb the continued, existing use. The house addition is normally allowed, & a garage is a necessity. Without the variance, they would be living in inhospitable, crowded conditions.
5. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE the house existed well before any ordinance or road existed. The addition will be no closer to the road.
6. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE this eliminates one driveway & it's on a CTH. No part of the addition is closer to the road or affects visibility. There is no response from the town or highway dept. in opposition.

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: 06-11-2009
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 V1301

HEARING DATE: 06-11-2009

APPLICANT: Hoffman Construction

PROPERTY OWNER: Wieda Christian

PARCEL (PIN #): 032-0814-0122-000 (21.100 A)

TOWNSHIP: Watertown

INTENT OF PETITIONER: Allow mineral extraction within 50' of a lot line.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.05(c)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:

50' minimum setback for pits

Proposed to excavate within the 50' setback

STH 19 ROW & Wis. DOT – RR corridor

STH 26 project

Length of pit?, DOT O.K., RR?, CUP required

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 the ordinance does not allow excavating within 50' of a lot line thus creating an unsafe ridge. The ordinance ultimately creates this situation.
- 8. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE it would be an improvement to the site especially with visibility of the RR
- 9. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE the town representative stated there was no town decision. Would be an improvement for the site.

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: **BOA makes recommendation that the ownership of the existing RR be verified.**

SIGNED: _____ **DATE:** 06-11-2009
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 V1302

HEARING DATE: 06-11-2009

APPLICANT: Hoffman Construction

PROPERTY OWNER: James & Sandra McManama

PARCEL (PIN #): 032-0814-0122-002

TOWNSHIP: Watertown

INTENT OF PETITIONER: Allow mineral extraction within 50' of a lot line.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.05(c) 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:

RR - Wis DOT Crossing Area

CU pending for USH 26 WAT Bypass

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:

- 10. 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 ordinance does not allow excavation within 50' of lot line thus creating an unsafe ridge. The ordinance ultimately creates this situation.
- 11. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE it would be an improvement to the site especially with visibility of the RR
- 12. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE the town stated there was no town decision. It would be an improvement to the site.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

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

CONDITIONS OF APPROVAL/DENIAL: **BOA makes recommendation that the ownership of the existing RR be verified.**

SIGNED: _____ **DATE:** 06-11-2009
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 V1303

HEARING DATE: 06-11-2009

APPLICANT: Hoffman Construction

PROPERTY OWNER: William H. Stade

PARCEL (PIN #): 014-0614-2211-001, -13-000, -12-000

TOWNSHIP: Jefferson

INTENT OF PETITIONER: Allow mineral extraction within 50' of a lot line for
proposed USH 26 bypass

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.05(c)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:

Mineral extraction for USH 26 bypass

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

DECISION OF THE ZONING BOARD OF ADJUSTMENT
JEFFERSON COUNTY, WISCONSIN

FINDINGS OF FACT

PETITION NO.: 2009 V1304

HEARING DATE: 06-11-2009

APPLICANT: Hoffman Construction

PROPERTY OWNER: Marles L. Staude Trust (LE)/Scott & Deborah Lundy

PARCEL (PIN #): 014-0614-2231-001, 014-0614-2234-000

TOWNSHIP: Jefferson

INTENT OF PETITIONER: Allow mineral extraction within 50' of a lot line

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.05(c)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:

2 adjoining neighbors allowing extraction for USH 26 bypass

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:

16. 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 ordinance does not allow excavating within 50' of a property line therefore creating an unnecessary ridge, but is adjacent to the ROW project removing potential of creating a ridge between the properties.
17. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE there is a public benefit to the project. The non-removal of the fill within 50' does not make sense especially on this site. Will reduce slope, runoff, etc.
18. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE it enhances the availability of fill to construct the road project which is a benefit with minimal transportation costs. A conditional use hearing is forthcoming for input.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

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

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ DATE: 06-11-2009
CHAIRPERSON

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