

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, MARCH 12, 2009
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

Meeting called to order @ 10:08 by Donald Carroll, Chair

2. Roll Call

Members present: Donald Carroll, Janet Sayre Hoeft

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

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

5. Approval of February 12, 2009 Meeting Minutes

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

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

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

Meeting called to order by Donald Carroll, Chair @ 1:05 p.m.

Members present: Donald Carroll, 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, March 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:

V1292-09 – Lemke Fence/David & Beth Schmitz Property: Variance to allow an addition to a non-conforming structure in excess of 50% of its fair market value and within five feet of the rear lot line in accordance with Sec. 11.09(e) and 11.04(f)3 of the Jefferson County Zoning Ordinance. The property, PIN 014-0614-1433-001 (1.833 Acres) is zoned Business and is in the Town of Jefferson at **N3809 STH 26.**

Dave Schmitz presented his petition. There were no questions or comments in favor or opposition of this petition.

Donald Carroll questioned if any of the building was being removed. He also questioned if this addition would be in line with the existing building. Janet Sayre Hoeft questioned the railroad tracks in the back and the location of the addition. She also questioned if a fire truck could get to the back of the building and if there extraterritorial restrictions. Also, Janet questioned the road setbacks as well as if the addition was being added for efficiency. Dale Weis made note that the building existed before the current ordinances, changes in setbacks once the area/roadway is changed to business 26, and that this property is in the urban service area. Dale questioned if the DOT had objected. Donald Carroll questioned the value of what is being torn down and what it's being replaced with.

Staff report was given by Rob Klotz. Dale Weis noted that the petitioner has not been to the town yet as per documentation in the file from the town.

V1293-09 – Robert Turtenwald: Variance to allow a new lot line at less than 20 feet from an existing structure at **N3417 Schmidt Road** in the Town of Hebron in accordance with Sec. 11.04(f)5 of the Jefferson County Zoning Ordinance. The site is on PIN 010-0615-2141-000 (29.17 Acres) and is part of a previously approved A-3, Rural Residential zone.

Robert Turtenwald presented his petition. There were no questions or comments in favor or opposition of this petition.

Dale Weis questioned the age of the structures and the access off of Schmidt Rd. Janet Sayre Hoeft questioned the access/driveway and the lot. Donald Carroll questioned the balance of the property once the residences were split off.

Rob Klotz gave staff report. Dale Weis noted that there was an approval from the town in the file.

8. Decisions on Above Petitions (See Attached)

9. Discussion of Board of Adjustment Public Hearing Dates and Fees

After discussion, the Board of Adjustment determined the following:

1. Recommend only publishing the hearing notice in the official paper (Daily Jefferson County Union) unless it's contrary to state statutes. Motion made by Dale Weis, seconded by Janet Sayre Hoeft, motion carried 3-0.
2. Continue monthly meetings, but if there are less than 2 petitions, staff would request to the petitioner to postpone the hearing until the next month. If not, an additional meeting fee would be imposed pending legal counsel and staff recommendations, and approval by the Board for the amount. The additional meeting fee would not be applicable if the petitioner requests a hearing for the 3rd month. Motion was made by Dale Weis, seconded by Janet Sayre Hoeft, motion carried 3-0.

NOTE: All of the above is to be submitted and reviewed by the Board at the next meeting.

10. Adjourn

Motion made by Dale Weis, seconded by Janet Sayre Hoeft to adjourn @ 2:25 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 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 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 it is a partial replacement of the existing structure & would be an improvement to the property. Zoning setbacks have increased due to a change in setbacks. There is a previous approval on file. It would be burdensome to the petitioner not to allow the expansion.
- 2. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE the parcel & building existed prior to the existing codes as well as the ROW. Directly to the rear of the property is a railway with a ROW, and adjacent to that is farmland. The setbacks to this property so limits this to make any addition impossible. There is no other place to put the addition – best option.
- 3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE it's in compliance with DOT regulations. Future standards will most likely be relaxed with regards to the setbacks. It is an approved, accepted use of the property, and will continue to be a strong tax-base in real estate & sales. It is going no closer to the road & it's only 5' too close to the railroad, not another business or home.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Dale Weis **SECOND:** Janet Sayre Hoeft **VOTE:** 3-0

SIGNED: _____ DATE: 03-12-2009
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.: V1293-09
HEARING DATE: 03-12-2009

APPLICANT: Robert Turtenwald

PROPERTY OWNER: SAME

PARCEL (PIN #): 010-0615-2141-000

TOWNSHIP: Hebron

INTENT OF PETITIONER: Variance to allow a new lot line at less than 20' setback to the existing shed/garage.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 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:
20' minimum setback required by ordinance – 7' proposed

Each lot needs to maintain it's own frontage on and access to the public road

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Lot location and property layout

FACTS PRESENTED AT PUBLIC HEARING: (see tape & minutes)

