

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

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

PUBLIC HEARING BEGINS AT **1:00 P.M.** ON APRIL 12, 2012, 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 at 10:00 a.m.

Meeting called to order @ 10:00 a.m. by Hoeft.

2. Roll Call

Members present: Hoeft, Carroll

Members absent: Weis

Staff: Laurie Miller, Michelle Staff

3. Certification of Compliance With Open Meetings Law Requirements

Hoeft acknowledged publication. Staff also presented proof of publication

4. Review of Agenda

Carroll made motion, seconded by Hoeft, motion passed 2-0 to approve the review of the agenda.

5. Approval of March 8, 2012 Meeting Minutes

Carroll made motion, seconded by Hoeft motion passed 2-0 to approve the March 8, 2012 meeting minutes.

6. Communications

The Board was given a copy of the Agricultural Preservation & Land Use Plan as well as the Jefferson County Ordinance 11, and Wisconsin Act 170.

There was some discussion of the materials. Additional information will be explained in hearing.

7. **Site Inspections – Beginning at 10:15 a.m. and Leaving from Room 203**
8. **Public Hearing – Beginning at 1:00 p.m. in Room 205**

Meeting called to order @ 1:00 p.m. by Hoeft

Members present: Hoeft, Carroll, Weis

Members absent: --

Staff: Laurie Miller, Michelle Staff

Procedure was explained by Hoeft.

The following was read into the record by Carroll:

***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, April 12, 2012 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:

V1382-12 – Reuben Schmitz, Jr.: Variance from Sec. 11.09(c) of the Jefferson County Zoning Ordinance to allow a home addition in excess of 50% of the structure's fair market value. The site is at **N6424 South Farmington Road**, Town of Farmington, on PIN 008-0715-1321-007 (0.617 Acres) in a Community zone.

Reuben Schmitz presented his petition. There were no questions or comments in favor or opposition of the petition. There was a town response in the file in favor which was read by Carroll.

Staff gave staff report and explained Act 170. Carroll questioned the petitioner if he would be O.K. with the Board tabling the petition until next month when the law (Act 170) is in effect.

V1383-12 – Edward & Caroline Soleska: Variance from Sec. 11.04(f)6 which states "A-1 zoned lands transferred from a parcel of record to another after February 8, 2000 shall not be used to create A-3 lots" and from 11.04(f)8 to exceed the maximum lot area in an A-3 zone over the allowed two acres. The site is in the Town of Jefferson, on **USH 18, across from W4402**, in an A-1 Agricultural zone. It is part of PINs 014-0615-0523-000 (36.451 Acres); 014-0615-0531-001 (11.163 Acres), 014-0615-0532-000 (18.110 Acres) and 014-0615-0532-002 (7 Acres).

Ed Soleska was present. John Kannard, surveyor, presented the petition. Kannard presented the Board with copies of what he was presenting which included legal documentation of adverse possession and a 1937 aerial photograph. Mr. Soleska further explained the petition.

There were no questions or comments in favor of the petition. There was a letter in the file from William & Barbara Schopen dated April 11, 2012 which was in opposition, and was read into the record by Weis. There was a response from the town in the file approving this petition, and was read into the record by Weis.

Staff report was given by Staff. Carroll questioned the access width, and commented on the easement. He asked Soleska to address how the easement would be addressed in the future. Kannard submitted to the Board a copy of a revised preliminary showing the easement. Soleska read, in part, the easement agreement.

Weis questioned Kannard on the access road and the floodplain/wetland delineation. Kannard submitted to the Board a copy of the wetland delineation.

Hoefl questioned the buildable lots. There was a discussion on what transpired with the land transfers. Kannard submitted a map of ownership and explained.

A motion was made by Carroll and seconded by Weis to table this petition for additional information. Motion carried 3-0.

V1384-12 – Betty Montgomery: Variance from Sec. 11.09(c) to allow a home addition in excess of 50% of the structure's fair market value. The property is on PIN 032-0815-2941-000 (32.51 Acres) in the Town of Watertown, at **N7870 STH 26** in an A-1, Agricultural zone.

Betty Montgomery presented her petition. Staff once again explained Act 170. There was discussion on how the new law would affect this petition. The Board decided to proceed with petition, and make a formal decision at the end of hearing.

There were no questions or comments in favor or opposition of the petition. There was a town response in the file approving this petition, and was read into the record by Weis. Staff report was given by Staff.

There were no additional questions or comments from the Board.

V1385-12 – Jim Noltner: Variance from Sec. 11.04(d) to permit more than one principal structure on the property at **N8392 Little Coffee Road** in the Town of Watertown. The site is zoned A-1 Agricultural and is part of PIN 032-0815-2223-000 (2.232 Acres)

Jim Noltner presented his petition. There were no questions or comments in favor or opposition of the petition. There was a town response in the file approving this petition with conditions that they were to meet the setbacks and the old house was to be removed. The town response was read into the record by Carroll.

Staff report was given by Staff. There was a discussion with the Board on a time limit for the old house to exist.

9. Decisions on Above Petitions (See files)

*******Before adjourning, the Board briefly discussed Act 170.

10. Adjourn

Weis made motion, seconded by Carroll, motion carried 3-0 to adjourn @ 3:00 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 at least 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.: V1382-12

HEARING DATE: 04-12-2012

APPLICANT: Reuben Schmitz, Jr.

PROPERTY OWNER: Reuben W. & Nancy M. Schmitz, Jr.

PARCEL (PIN #): 008-0715-1321-007

TOWNSHIP: Farmington

INTENT OF PETITIONER: An Addition in Excess of 50% of the Fair Market Value

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.09 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:

The petitioner received a variance in 1999 to allow an addition onto the existing home over 50% of the Fair Market Value. The petitioner is requesting another addition to the structure. They are proposing two (2), two-story additions with a total of 1088 sq. ft. to be added to the existing structure. The structure is non-conforming due to the fact that the residence is 36 feet from the centerline and 19 feet from the right-of way of S. Farmington Road whereas the required setback is 85 feet from the centerline and 50 feet from the right-of-way.

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Site inspections conducted. Observed property layout & location.

FACTS PRESENTED AT PUBLIC HEARING: See tape, minutes & file.

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

FINDINGS OF FACT

PETITION NO.: V1383-12

HEARING DATE: 04-12-2012

APPLICANT: Edward Soleska

PROPERTY OWNER: Edward E. & Caroline M. Soleska

PARCEL (PIN #): 014-0615-0523-000, 014-0615-0531-001, 014-0615-0532-000, &
 014-0615-0532-002

TOWNSHIP: Jefferson

INTENT OF PETITIONER: To create a 3.5 acre A-3 building site with lands
transferred from the parcel of record after the adoption of the 2000 zoning ordinance
and with lands that no longer can be used for A-3 lots. In addition, the proposed lot is
over the maximum of 2 acres allowable in prime soils.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f)6 & 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:
On July 8, 2010, the Jefferson County Board of Adjustment denied the petitioner this
variance request. The petitioner is proposing a new lot that is utilizing lands that have been
transferred from a parcel of record and that has been previously restrictive to be used for A-3
lots. The split of land proposed for the 66 foot access strip was transferred in 2002 from the
Zeloski farms. The ordinance does not allow lands transferred after the adoption of the
ordinance (March 2000) to be used to create new lots. In addition, Zeloski created the
maximum amount of lots on their lands, and the remaining lands were "frozen" which can
no longer be used for additional A-3 lots. Without these lands being transferred, the
petitioner could not propose a new lot due to the fact that 66 feet is required for access and
frontage, and previously, the petitioner only had 20 feet which he had obtained by court
order in 01/31/1995. In addition, the petitioner is asking for 3.5 acres of prime soils,
whereas the max of 2.0 acres is allowed when there is less than 50 acres of contiguous A-1
zoned lands.

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Site inspections
conducted. Observed property layout & location.

FACTS PRESENTED AT PUBLIC HEARING: See tape, minutes & file.

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 NOT VIOLATED.

BASED ON THE FINDINGS OF FACT, THE BOARD CONCLUDES THAT:

- 4. UNNECESSARY HARDSHIP **IS/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 _____

- 5. THE HARDSHIP **IS/IS NOT** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE _____

- 6. THE VARIANCE **WILL/WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE _____

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS **TABLED** for additional information per motion made by Carroll at hearing, seconded by Weis. Motion carried 3-0.

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ DATE: 04-12-2012
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.: V1384-12

HEARING DATE: 04-12-2012

APPLICANT: Betty L. Montgomery

PROPERTY OWNER: SAME

PARCEL (PIN #): 032-0815-2941-000

TOWNSHIP: Town of Watertown

INTENT OF PETITIONER: To expand an existing non-conforming structure over
50% of the Fair Market Value

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:

 The structure is currently non-conforming due to the fact it is 52 feet from the right-
of-way of State Highway 26 whereas the required setback is 200 feet. In 1991, a permit was
issued not calculating the 50%, but that addition was clearly over 50% of the fair market
value. In addition, in 1981 another permit was issued for an addition to the structure. See
notes in the file. In 2011, the petitioner was issued an ADA zoning permit for an open porch
and is asking that the porch remain on the property after the ADA is no longer living in the
home.

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Site inspections
conducted. Observed property layout & location.

FACTS PRESENTED AT PUBLIC HEARING: See tape, minutes & file.

