

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, DECEMBER 11, 2008
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

Meeting Called to order @ 10:15 a.m. by Donald Carroll, Chair

2. Roll Call

Members present: Dale Weis, Donald Carroll, Janet Sayre Hoeft

Members absent: --

Staff: Rob Klotz, Laurie Miller

3. Certification of Compliance With Open Meetings Law Requirements

Janet Sayre Hoeft & Rob Klotz acknowledged publication.

(NOTE: Laurie to provide board with proof of publication at meetings)

4. Review of Agenda

Janet Sayre Hoeft made motion, seconded by Dale Weis, motion carried 3-0 to approve the review of the agenda as presented.

5. Approval of November 13, 2008 Meeting Minutes

Janet Sayre Hoeft made motion, seconded by Dale Weis, motion carried 3-0 to approve the minutes.

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

V1289-08 – Eugene Hasel, W7327 Mud Lake Road, Town of Lake Mills

V1287-08 – Clifton Fuller, Piper Road, Town of Cold Spring

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

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

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, December 11, 2008 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:

V1289-08 – Eugene Hasel/Eugene G & Betty A Hasel Trust Property: Variance to create a proposed A-3 zoned lot with reduced rear-yard setback of 10 feet, in accordance with Section 11.04(f) of the Jefferson County Zoning Ordinance. The site is at **W7327 Mud Lake Road** in the Town of Lake Mills, on PIN 018-0713-3611-002 (37.1 Acres).

Gene Hasel presented his petition. There were no questions or comments in favor or opposition of this petition.

Don Carroll questioned access. Janet Sayre Hoeft questioned the driveway, shared access.

Rob Klotz gave staff report and noted that the town clerk had called in their decision of no objection.

V1287-08 – Clifton T Fuller/Thomas & Rhonda Fuller Property: Allow possible future division of a lot created by variance in 1976 in accordance with Section 11.02 of the Jefferson County Zoning Ordinance. The site is on **Piper Road** in the Town of Cold Spring, part of PIN 004-0515-2333-002 (11.888 Acres), currently zoned A-1 Agricultural.

Gene Kovaks from RSV Engineering presented a detailed sketch showing 2' topals and additional information on access. There were no questions or comments in favor or opposition of the petition.

Dale Weis questioned the town on their approval of access. Janet Sayre Hoeft questioned access and the location of the fence.

Rob Klotz gave staff report. There was a response from the town in the file and read into the record by Donald Carroll of no objection with conditions on access. Lisle Piper explained the town requirements of driveway access.

8. Decisions on Above Petitions (See files)

9. Phil Ristow-Site Inspection Notice and Site Inspection Permission & 10. Review of Application and Decision Form Changes Made 11/13/08

There was discussion between the board and Phil Ristow, Corporation Counsel. Phil explained that if interested party(s) wanted to attend site inspections, they can provide their own transportation; however, there could be theoretical considerations for persons with disabilities. If someone makes such a request, it would be dealt with at that time. Phil Ristow explained open meeting law. The board/staff will consult with corporation counsel as issues arise, if needed, and will try to accommodate any such requests.

Rob Klotz noted the changes/additions to the application and hearing notice as well as the notation of “audio record of these proceeding is available upon request” to the decision forms.

Rob will meet with Phil to add the word “consent” to the application and hearing notice.

The board reiterated its not discussing the petitions during site inspections. There was discussion on the decision process.

11. Adjourn

Dale Weis made motion, seconded by Janet Sayre Hoeft, motion carried 3-0 to adjourn @ 1:56 p.m.

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.: V1289-08

HEARING DATE: 12/11/2008

APPLICANT: Eugene Hasel

PROPERTY OWNER: Eugene & Betty Hasel Trust

PARCEL (PIN #): 018-0713-3611-002

TOWNSHIP: Lake Mills

INTENT OF PETITIONER: Variance to create a proposed A-3 lot with reduced rear-yard setback of 10'.

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:

 Proposed A-3 lot

 Minimum setbacks – 20' rear-yard setback

 What is the age of the residence?

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

FACTS PRESENTED AT PUBLIC HEARING: Owns both parcels, may want to turn over farm to sons. Needs to separate off this parcel from the farm. The new lot line would be between the two sheds. Uses the shed for personal use. Location of septic an issue if placing lot line elsewhere.

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 house uses 1 shed for maintenance of house & lawn. Will continued to be used as a residence & conformity would place an unnecessary burden if restricted in that a residential type structure/use would be denied. Under normal circumstances, would be reasonable to allow the split.
- 2. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE the buildings are already there and the septic is between the house and shed. Once separated out, shed will be used for maintenance of the home & lawn. Need to preserve the septic.
- 3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE the parcel has another access besides the farm access. There is no change in the actual use & purpose of the structure. Additionally, it would further infringe on the owner's right to dispose his real estate property. Was O.K.'d by the township & there is no access issues.

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:** 12-11-2008
CHAIRPERSON

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

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 it is unique physically because of the slopes. Parcel was created by a variance. It has topographical, severe elevation changes making it a hardship.
- 5. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE under normal circumstances, these lots could be split. The result in creation for building purposes would provide an adequate home with adequate access.
- 6. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE there will be access to all 3 lots. Safety requirements have been addressed by the town limiting the impact to the community. The town has no objection as long as they meet the access requirements.

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

CONDITIONS OF APPROVAL/DENIAL: Need to follow through with the formal rezoning processes and obtain city extra-territorial approval.

SIGNED: _____ DATE: 12-11-2008

CHAIRPERSON

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