

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 THURSDAY, MAY 12, 2011, ROOM 205, JEFFERSON COUNTY COURTHOUSE

CALL TO ORDER FOR BOARD MEMBERS IS AT 11:00 A.M. IN COURTHOUSE ROOM 203, PRIOR TO THE HEARING

SITE INSPECTION FOR BOARD MEMBERS LEAVES AT 11:15 A.M. FROM COURTHOUSE ROOM 203, PRIOR TO THE HEARING

1. Call to Order-Room 203 at 11:00

Meeting called to order @ 11:00 a.m. by Janet Sayre Hoeft

2. Roll Call

Members present: Janet Sayre Hoeft, Donald Carroll

Members absent: Dale 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 carried 2-0 to approve the review of the agenda.

5. Approval of April 14, 2011 Meeting Minutes

Hoeft made motion, seconded by Carroll, motion carried 2-0 to approve the meeting minutes of April 14, 2011 with a correction that Item #6 – ***Set Future Meeting Schedules*** should read meetings will be held every second Thursday of the month.

6. Site Inspections – Beginning at 11:15 a.m. and Leaving from Room 203 V1361-11 – Gene Olson, N5322 Watertown Rd., Town of Aztalan

V1364-11 – Mark Schiferl, N4848 Switzke Rd., Town of Jefferson County

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

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

Members present: Janet Sayre Hoeft, Donald Carroll

Members absent: Dale Weis

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, May 12, 2011 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:

***Dale Weis was present at 1:05 p.m.**

V1361-11 – Gene Olson: Variance from Sec. 11.04(d) of the Jefferson County Zoning Ordinance to allow a third accessory structure in a Residential R-2 zone at **N5322 Watertown Rd.** The property is in the Town of Aztalan, on PIN 002-0714-2643-0004 (0.84 Acre).

Gene Olson presented his petition. There were no questions or comments in favor or opposition of the petition.

There was a town response in the file of no opposition, and was read into the record by Carroll. Staff report was given by Staff.

Hoelt questioned if the building met the setbacks. Carroll commented on the construction of the building without permits, the petitioner creating his own hardship, and meeting the criteria for variance. He also questioned the petitioner on the nature of the property to validate the current placement of the structure. Hoelt questioned the number of people on the Plan Commission and the petitioner's involvement in the town's decision. Weis questioned staff on if another accessory structure was removed, would the petitioner be O.K. Carroll commented that this was post-fact. Weis questioned if the town building inspector would require a permit. Hoelt questioned if the building had been inspected now.

V1364-11 – Mark Schiferl: Variance from Sec. 11.02 of the Jefferson County Zoning Ordinance to allow a second home occupation on a lot. The site is at **N4848 Switzke Road** in the Town of Jefferson on PIN 014-0615-0422-005 (3 Acres).

The petition was presented by Mark Schiferl. There were no questions or comments in favor or opposition.

There was a response in the file from the town of approval which was read by Carroll. Staff report was given by Staff.

Carroll questioned staff on when the conditional use hearing was. Carroll questioned the petitioner if he would object to the Board setting time limits and conditions, and asked the petitioner what would be a reasonable time frame to eliminate the first business. Weis questioned if the business would operate under the same name. Hoelt confirmed with the petitioner the statements provided which was in the file, and that there would be nothing stored outside the building.

8. Decisions on Above Petitions (See Files)

NOTE: The Board requested that discussion of zoning amendments be put on next month's agenda.

9. Adjourn

Motion was made by Weis, seconded by Carroll, motion carried 3-0 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 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.: 2011 V1361
HEARING DATE: 05-12-2011

APPLICANT: Gene Olson

PROPERTY OWNER: Gene A. & Carron K. Olson

PARCEL (PIN #): 002-0714-2643-004

TOWNSHIP: Aztalan

INTENT OF PETITIONER: To allow three (3) accessory structures within an R-2 Residential District.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(d) 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:

This petition is an after-the-fact request for three(3) structures on an R-2 zoned property. Currently, the property has three detached structures, 144 sq. ft. shed, 900 sq. ft. garage and 1200 sq. ft. garage whereas the zoning ordinance only allows two (2) detached structures in the R-2 zone. In 2007, the petitioner was granted a conditional use permit and a zoning permit to add on to an existing 900 sq. ft. garage. It was brought to the attention to this department that the petitioner did not add onto the existing structure as permitted but built a stand-alone garage instead, creating three structures in an R-2 zone.. The petitioner is asking to sanction an additional structure on the property.

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:

1. UNNECESSARY HARDSHIP **IS NOT** PRESENT IN THAT A LITERAL ENFORCEMENT OF THE TERMS OF THE ZONING ORDINANCE **WOULD NOT** UNREASONABLY PREVENT THE OWNER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE OR WOULD RENDER CONFORMITY WITH SUCH RESTRICTIONS UNNECESSARILY BURDENSOME BECAUSE _____ he already has _____ a shed & garage – the two accessory structures allowed without variance.

2. THE HARDSHIP **IS NOT** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE _____ it's the circumstance of the applicant.

3. THE VARIANCE **WILL** 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 **DENIED**.

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

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ DATE: 05-12-2011
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.: 2011 V1364
HEARING DATE: 05-12-2011

APPLICANT: Mark Schiferl

PROPERTY OWNER: Mark W. & Kristine M. Schiferl

PARCEL (PIN #): 014-0615-0422-005

TOWNSHIP: Jefferson

INTENT OF PETITIONER: _____

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.02 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 property is zoned A-3 Rural Residential. On July 29, 2003, the Jefferson County Planning and Zoning Committee granted a conditional home occupation for a medical equipment repair service. The condition of approval was that all stipulations of the conditional home occupation apply. The definition of home occupation limits the use to only one business on the property. The petitioner is requesting two uses or business to be conducted out of the accessory building. The reasons the petitioner would like to have two businesses is to phase out one business while creating another business, but has not indicated the time frame when this will be completed by. The property has been used as a home occupation with one business for 8 years.

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** 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 impact of the dissolution on one business and starting up of another requires a period of time where both businesses would operate simultaneously. Owner needs to pursue a different business interest to stay in business.
5. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE the spirit & intent of the ordinance would require a reasonable transition period of time. The ordinance is too rigid to allow for a business transition.
6. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE the ordinance is designed to allow the operation of a home occupation. There was town approval. There is no change in the physical use of the property & it meets the intent of the ordinance.

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

NOTE: The original motion was modified to read: To allow for a second business while the owner pursues a new business interest.

SIGNED: _____ **DATE:** 05-12-2011
CHAIRPERSON

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