

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, SEPTEMBER 8, 2011, IN 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 by Donald Carroll @ 10:03 a.m.

2. Roll Call

Members present: Donald Carroll, Paul Hynek

Members absent: Janet Sayre Hoeft, Dale Weis

Staff: Laurie Miller, Michelle Staff

3. Certification of Compliance With Open Meetings Law Requirements

Staff provided proof of publication.

4. Review of Agenda

Hynek made motion, seconded by Carroll, motion carried 2-0 to approve the agenda.

5. Approval of August 11, 2011 Meeting Minutes

Hynek made motion, seconded by Carroll, motion carried 2-0 to table the approval of the August 11, 2011 meeting minutes until there was a quorum.

6. Site Inspections – Beginning at 10:15 a.m. and Leaving from Room 203
V1372-11 – Jason Dey, W5332 Curtis Mill Rd, Town of Jefferson
AP1374-11 – Scott Thorp, Harvey & Regina Beane Property, W7821 Willow Rd, Town of Sumner

V1373-11 – William & Shirley Baker, W&S Baker Trust Property, N551
Wishing Well Lane, Town of Koshkonong
V1371-11 – Paul & Carol Christensen, N1411 St John's Rd , Town of Cold
Spring

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

Public hearing called to order by Dale Weis @ 1:00 p.m.

Motion was made by Carroll, seconded by Weis, motion carried 2-0 to approve the August 11, 2011 meeting minutes. Hynek abstained.

Donald Carroll recommended changing the order of petitions and hear the appeal testimony first.

Members present: Donald Carroll, Dale Weis, Paul Hynek

Members absent: Janet Sayre Hoeft

Staff: Laurie Miller, Michelle Staff, Rob Klotz

Also present were Attorney Scott Scheibel & Attorney Phil Ristow

Procedure was explained by Weis.

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, September 8, 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:

AP1374-11 – Scott Thorp/Scott & Rebecca Thorp & Harvey II & Regina Beane Property: Appeal of the substantial damage estimate for the residence located at **W7821 Willow Road**, as a result of the 2008 flood event. The site is on PIN 028-0513-1142-034 (0.1 Acre) in a Waterfront zone.

Scott Thorp explained his reasons for the appeal. Rob Klotz presented staff report, explained the FEMA estimates computer program and configurations, and regulations. He also explained notifications to flood properties, what was submitted by the petitioner, and the reasons for denial. He referred to sections of the ordinance that were applicable.

Weis questioned if the assessed value was used to determine the 50% and if the county did all that was required in a timely fashion. Weis also questioned if they were given all the notifications and questioned the deadline on this procedure. He also questioned whether there was town or DNR input on file.

Hynek made note that the county attorney was present to guide the board. Hynek asked for clarification of the appeal request and questioned the petitioner on the ground level and first floor damage, and his estimates. He also questioned staff on the portion of repairs. Klotz explained. Hynek questioned the petitioner on the cost to bring the structure back to a pre-flood condition.

Carroll made statement regarding the facts presented, and questioned the petitioner on the recent assessment and the percentage of work already done. He also questioned the petitioner if zoning had notified him of the buyout and if there was dryland access during the flooding – if emergency services could access his property.

Weis questioned staff on the assessments and deadlines. There was a discussion on the assessed value of the structure. Weis questioned the petitioner that if a deadline was set, would he be willing to submit all the information needed. There was discussion on the work already done on the structure.

Carroll commented on FEMA standards.

V1371-11 – Paul & Carol Christensen: Variance from Sec. 11.07(d) of the Jefferson County Zoning Ordinance to construct an accessory structure at a zero setback from the right-of-way of School Road, and reduced setback to its centerline. The site is at **N1411 St John’s Rd**, on PIN 004-0515-1832-006 (1.158 Acre) in a Community zone.

Paul Christensen presented this petition. There were no questions or comments in favor or opposition of the petition. There was a decision in the file from the town approving this petition, and read by Carroll.

Staff report was given by Staff. Carroll made statement of the 66’ width of the ROW and the placement of the road in the ROW. Hynek questioned staff on ownership to the centerline of the road.

Break at 2:20 p.m., reconvened at 2:25 p.m.

V1372-11 – Jason Dey: Variance from Sec. 11.09 to exceed 50% of a structure’s fair market value with an attached garage addition to a non-conforming structure; variance from Sec.11.07 for an addition closer to the road right-of-way and centerline than the existing structure. The site is in the Town of Jefferson, at **W5332 Curtis Mill Rd**, on PIN 014-0614-2641-003 (3.81 Acres) in an A-1 Agricultural zone.

Jason Dey 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 which was read by Carroll. Staff report was given by Staff.

Weis questioned staff if the house was closer to Deer Creek. He also questioned the previous storage structures on the property. Carroll questioned the petitioner on DNR response. Hynek questioned the placement – not coming closer to the road. He also questioned the 100 year flood level and whether the garage would be constructed above that level.

V1373-11 – William & Shirley Baker, W&S Baker Trust Property: Variance to sanction an addition to a camping trailer “after-the-fact” that does not comply with Sec. 11.02 – Campground definition, allowing a 400 square foot deck with no walls and no roof. The site is at Jellystone Park Condominiums, **N551 Wishing Well Lane** in the Town of Koshkonong, on PIN 016-0513-2533-180 in an A-2, Agribusiness zone.

William and Shirley Baker were both present. Mr. Baker presented a packet of information to each of the Board members. Mrs. Baker explained their petition.

There were no questions or comments in favor or opposition of the petition. There was a response in the file from the town approving this petition, which was read by Carroll. Staff report was given by Staff.

Hynek questioned the petitioner if the structure was a detached, freestanding accessory structure. Weis questioned the principal use of the structure. Carroll questioned staff if notice was given to the petitioners that this was an illegal structure.

Vic Pifel, a resident of Jellystone since 1983, made statements favoring this petition.

8. Decisions on Above Petitions (See files)

9. Adjourn

Weis made motion, seconded by Hynek, motion carried 3-0 to adjourn @4:35 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 V1371
HEARING DATE: 09-08-2011

APPLICANT: Paul R. & Carol J. Christensen

PROPERTY OWNER: SAME

PARCEL (PIN #): 004-0515-1832-006

TOWNSHIP: Cold Spring

INTENT OF PETITIONER: Construct accessory structure at a zero setback from
the ROW of School Rd.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.07(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:

The petitioner is requesting to build a new 30' x 33' (1,000 sq. ft.) detached structure
zero feet (on the) right of way and approximately 37 feet from the centerline of School Road,
whereas the required setback is 30 feet from the right-of- way and 63 feet from the
centerline. The rear and side setback for an accessory structure in a Community zone is 3
feet. The parcel is 1.15 acres in size. The mound is located on the far north property line.
School Road is platted as a dead end road but does connect through private property to
Carnes Rd. See attached air photos. Structure could be built meeting all required setbacks

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.: 2011 V1372

HEARING DATE: 09-08-2011

APPLICANT: Jason D. Dey

PROPERTY OWNER: SAME

PARCEL (PIN #): 014-0614-2641-003

TOWNSHIP: Jefferson

INTENT OF PETITIONER: Variance to exceed 50% FMV for addition (attached garage) to a non-conforming structure. Also, variance for addition closer to the road than the existing structure.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.09, 11.07 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 14, 2011, Mr. Dey was denied a variance from the Board of Adjustment. A copy of the denied decision is located in the file. Mr. Dey has modified the request from the previous petition by reducing the size of the attached garage and proposing a rain garden between existing retaining wall and the structure, approximately an area of 16' x 14' (224 sq. ft.). The petitioner is proposing a 23' x 28' (672 sq. ft.) attached garage. It is proposed 68 feet from the centerline of Bark River Road and 35 feet from the right-of-way, whereas the required setback is 85 feet from the centerline and 50 feet from the right-of-way. The structure is setback 14 feet from Deer Creek, whereas 75 feet is required. In 1977, a zoning/land use permit was issued for a 3-car attached garage, not going any closer to the road setback or creek. In 1982, the structure was granted a variance to add a front porch closer to the road setback. In 2008, the structure was granted a variance to exceed 50% of the FMV to add a 2nd story addition, doubling the square footage of the structure. A condition of that approval was that a 35 foot shoreland buffer was required. In 2011, as stated above, the petitioner was denied a variance based on the finding of fact and applying the variance criteria.

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.: 2011 V1373

HEARING DATE: 09-08-2011

APPLICANT: William & Shirley Baker

PROPERTY OWNER: W & S Baker Trust

PARCEL (PIN #): 016-0513-2533-180

TOWNSHIP: Koshkonong

INTENT OF PETITIONER: Sanction addition to camping trailer "after-the-fact"
that does not comply with 11.02 campground definition – limit of 400 sq. ft. deck
with no wall, no roof.

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 structure is located in a campground. There is no permit granted for the
structure. Section 11.02 defines campgrounds as : A privately or municipally owned parcel
or tract of land, maintained, intended, or used for the purpose of supplying temporary or
overnight living accommodations to the public by providing designated areas for the
placement of trailers, tents, buses, automobiles, or sleeping bags, and may include
structures to provide services to the patrons, such as rest rooms, bathing and laundry
facilities. Accessory structures associated with the camping use within designated and
approved campsites are limited to one detached deck and one storage shed per site. Decks
shall not exceed 400 square feet and shall have no walls and roofs. Storage sheds shall not
exceed 100 square feet in size. Floodplain and shoreland overlay districts may provide
additional restrictions impacting placement of accessory structures.

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:

- 7. 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 it's an illegal structure, not the fault of the property. It was done by the wishes of the owner, and is not a necessary use in a campground.
- 8. THE HARDSHIP **IS NOT** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE not the fault of the property – it's an illegal structure.
- 9. THE VARIANCE **WILL** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE to allow the attached structure would set a precedence.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Hynek **SECOND:** Carroll **VOTE:** 3-0

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ **DATE:** 09-08-2011
VICE-CHAIRPERSON

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

AP1374-11 – Scott Thorp/Scott & Rebecca Thorp & Harvey II & Regina Beane
Property – Decision:

Carroll made motion to concur with staff decision, Weis seconded. After discussion by the Board, Carroll withdrew his motion.

There was further discussion on the testimony of this appeal. Hynek made motion to table this petition until next month to gain more information with the understanding that zoning will review. Motion was seconded by Weis. Roll call vote was taken – Hynek – Aye, Carroll – No, Weis – Aye. Motion passed 2-1.

Signed: _____ DATE: 08-08-2011
VICE-CHAIRPERSON