

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

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

PUBLIC HEARING BEGINS AT **1:00 P.M.** ON AUGUST 8, 2013 IN ROOM 205, JEFFERSON COUNTY COURTHOUSE

CALL TO ORDER FOR BOARD MEMBERS IS AT 9:30 A.M. IN COURTHOUSE ROOM 203, PRIOR TO THE HEARING

SITE INSPECTION FOR BOARD MEMBERS LEAVES AT 9:45 A.M. FROM COURTHOUSE ROOM 203, PRIOR TO THE HEARING

1. Call to Order-Room 203 at 9:30 a.m.

Meeting called to order @ 9:32 a.m. by Carroll

2. Roll Call

Members present: Carroll, Zastrow

Members absent: Hoeft, Weis

Staff: Michelle Staff, Laurie Miller

3. Certification of Compliance with Open Meetings Law Requirements

Staff presented proof of publication.

4. Review of Agenda

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

5. Approval of May 9, 2013 Meeting Minutes

The approval of the meeting minutes was postponed until the public hearing.

Weis made motion, seconded by Carroll, motion carried 2-0 to approve the May 9, 2013 meeting minutes.

6. Communications

The Board was presented with a handout from the Wisline Series meeting from May 15, 2013.

7. Site Inspections – Beginning at 9:45 a.m. and Leaving from Room 203

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

Meeting called to order @ 1:03 p.m. by Carroll

Members present: Carroll, Zastrow, Weis

Members absent: Hoeft

Staff: Michelle Staff, Laurie Miller

9. Explanation of Process by Board of Adjustment Chair

The following was read into the record by Weis:

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, August 8, 2013 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:

V1406-13 – John Diestelmann & Liz Kissinger: Variance from Sec. 11.04(f)8 of the Jefferson County Zoning Ordinance to temporarily allow a second residence while a new residence is under construction. The site is at **W4480 Diestelmann Lane** in the Town of Hebron, on PIN 010-0615-2032-000 (1.696 Acre) in an A-3, Rural Residential zone.

John Diestelmann presented his petition. Liz Kissinger also presented additional information regarding the request.

There were no questions or comments in favor or opposition of the petition. Staff report was given by Staff.

There was a town response in the file from the town approving this petition, and was read into the record by Weis.

Carroll questioned the petitioner on the time frame, and would they be adverse to any part of the decision to have a time frame for removal.

V1407-13 – Troy Schlender: Variance from Sec. 11.04(f)6 Conditional uses a.3 to allow a manure storage structure at less than the 350-foot setback required from a property line for intensive agricultural/ATCP51 operations. The site is at **W6624 E. Hubbleton Road** in the Town of Milford, on PIN 020-0814-0543-001 (19 Acres) in an A-1 Agricultural zone.

Troy Schlender presented his petition. In favor were Elsa Arnold, Clarence Mess, Roger Zimmerman, Bill Wegner, and Brian Zimmerman. No one spoke in opposition of the petition. There was a letter in the file in opposition from Lyall, Charles and Jill Hutchins which was read into the record by Weis.

Staff report was given by Staff. There was a town response in the file approving the petition which was read into the record by Weis.

Weis questioned Patricia Cicero (LWCD) regarding the pros and cons of the location of the manure structure. Cicero explained. Weis also asked about any concerns with the proposed location of the structure. Cicero explained. Weis questioned Staff about overstepping state guidelines. Staff explained. Zastrow questioned the construction of the pit. Petitioner explained. Zastrow also asked about any wetlands on the property. Carroll questioned the alternate site on the hill, if located there,

where would the buildings then be located. Weis questioned the petitioner on the location. Weis also questioned the engineer on the east versus west sites. Lee Bartlett, engineer, explained the design and the reasons for the site. Weis questioned Steve Duwe from the Town Plan Commission for wanting the pit on the west side of the barn. Duwe explained.

V1408-13 – Ryan Hush: Variance from Sec. 11.04(f)6 to reduce the A-1 zone minimum lot width for shed construction at **W7585 Novak Lane** in the Town of Waterloo. The property is PIN 030-0813-0121-000 (3.273 Acres).

Ryan Hush presented his petition. He wants to replace the existing shed with the proposed shed in the same location. He will maintain all setbacks.

Speaking in favor was Steve Quamme. There were no questions or comments in opposition of the petition. Staff questioned the petitioner if any property was owned in Dodge County, and then gave staff report. There was a town response in the file in favor of the petition which was read into the record by Weis.

Carroll questioned Staff on what would be required if the building was restored or replaced.

10. Decisions on Above Petitions (See following pages & files)

Before deliberations on decisions, the Board made motion on the approval of the meeting minutes for May 9, 2013. See #5 above for motion.

11. Adjourn

Motion made by Weis, seconded by Zastrow, motion carried 3-0 to adjourn @ 3:52 p.m.

If you have questions regarding these variances, please contact the Zoning Department at 920-674-7113 or 920-674-8638. Variance files referenced on this hearing notice may be viewed in Courthouse Room 201 between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, excluding holidays. Materials covering other agenda items can be found at www.jeffersoncountywi.gov.

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.

A digital recording of the meeting will be available in the Zoning Department upon request.

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

FINDINGS OF FACT

PETITION NO.: 2013 V1406
HEARING DATE: 08-08-2013

APPLICANT: John Diestelmann & Liz Kissinger

PROPERTY OWNER: John Diestelmann

PARCEL (PIN #): 010-0615-2032-000

TOWNSHIP: Hebron

INTENT OF PETITIONER: To temporary allow two residences on one lot while the permanent residence is being constructed.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f)8
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:
Currently, the property has a mobile home that was permitted in 1990 which was a replacement for another mobile home. The petitioner would like to continue to live in the existing mobile home while a new residence is completed. They have indicated that the mobile home will be removed within one month of the completion of the new home. In addition, they indicated the new home would start in October. There is floodplain on the property, but the new home is proposed outside of the floodplain. A septic permit was issued in 1972 for a mobile home. Septic may need to be replaced.

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** 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 they are entitled to build a new home. It would be a cost burden to find different housing and storage of personal items. The existing structure is the present residence of the applicant. Further, onsite construction would be under their direct supervision.
- 2. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE they are entitled to build a new home. The Ordinance does not address this issue. They would be removing a non-conforming structure and replacing it with a residential structure meeting all Ordinance requirements. The Ordinance does not allow 2 homes. When the project is complete, the old will be removed.
- 3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE it does not affect public interest. Having a new residence on the property is a benefit. The existing structure will be removed within a year from this approval. Creating a new structure allowing 1 year is practical. The old home will be removed

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Weis

SECOND: Zastrow

VOTE: 3-0

CONDITIONS OF APPROVAL: **Mobile home will be removed within 1 year of the date of this approval.**

SIGNED: _____ **DATE:** 08-08-2013
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.: 2013 V1407
HEARING DATE: 08-08-2013

APPLICANT: Troy Schlender

PROPERTY OWNER: SAME

PARCEL (PIN #): 020-0814-0543-001

TOWNSHIP: Milford

INTENT OF PETITIONER: Proposing a manure storage structure within 350 feet from a lot line (Englehart Road)

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f)6 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 proposing a manure storage structure at 50 feet from a property line whereas the required setback from ATCP 51.12 is 350 feet. Directly across the road is an existing residence. The width of the property is 650 feet; therefore, any manure storage structure would require a property line setback. There is currently 39 acres of A-1 lands for placement of the manure structure. In addition, the petitioner is proposing a new free stall barn north of the existing structure.

A conditional use permit is required the livestock expansion, and is currently in the process.

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 layout of the property. They could not be in compliance without a variance request. The site, size and topography presents the hardship. It provides construction of a practical & functional manure system for the property.
- 5. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE there is not a good spot on the property to place the structure. The existing flow of the land and the land usage dictates placement as submitted. The physical features of the property poses the problem.
- 6. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE the smell situation will not be any greater than it already is. They will continue the farming and dairy business. It will reduce the traffic, and the distance effectively is minimal. Any possible failure of the installation will be onto the farmland of this parcel. A properly constructed and maintained storage facility will be better for public safety than no structure at all.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Zastrow **SECOND:** Weis **VOTE:** 3-0

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ **DATE:** 08-08-2013
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.: 2013 V1408
HEARING DATE: 08-08-2013

APPLICANT: Ryan & Tori Hush

PROPERTY OWNER: Ryan Hush

PARCEL (PIN #): 030-0813-0121-000

TOWNSHIP: Waterloo

INTENT OF PETITIONER: The petitioner would like to build an accessory structure on an A-1 property on a width less than 200 feet

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f)6
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 would like to rebuild an existing shed that is located on the lot at a lot width of 100 feet, whereas the required lot width is 200 feet. The lot was created in 1996 as an accessory land division and only has a 160 foot width. The reason for this was that at the time of creation, A-3 zoning controls applied. Presently, the required width of an A-1 lot is 200 feet until the land is rezoned to an A-3 lot. The Dodge County Line is along the north property line. The petitioner is proposing the structure 21 feet to the north property line and 25 feet from the south property which meets setback provisions of the ordinance.

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

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

