

# ***JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT***

*Janet Sayre Hoeft, Chair; Dale Weis, Vice-Chair; Don Carroll, Secretary;  
Paul Hynek, First Alternate; Lloyd Zastron, Second Alternate*

**PUBLIC HEARING** BEGINS AT **1:00 P.M.** ON AUGUST 14, 2014 IN 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 at 10:15 a.m.**

Meeting called to order @ 10:15 a.m. by Hoeft

## **2. Roll Call**

Members present: Carroll, Hoeft

Members absent: Weis

Staff: Rob Klotz, Michelle Staff, Laurie Miller

## **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 June 12, 2014 Meeting Minutes**

Carroll made motion, seconded by Hoeft, motion carried 2-0 to approve the June 12, 2014 meeting minutes.

## **6. Communications-None**

## **7. Explanation of Regulations Regarding Expansion of Existing Non-Conforming Structures**

Rob Klotz explained. The Board was provided with a copy of the Ordinance section referring to this issue.

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

Weis not present for site inspections.

V1427-14 – Paul Antczak/Diane West Property, N4615 Highland Drive

V1425-14 – Cindy & Randy Piskula, W174 Rockvale Road

V1426-14 – Jay Lewellin, W8756 Alley Road

## **9. Public Hearing – Beginning at 1:00 p.m. in Room 205**

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

Members present: Carroll, Hoeft

Members absent: Weis

Staff: Laurie Miller, Michelle Staff

## **10. Explanation of Process by Board of Adjustment Chair**

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, August 14, 2014 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:

**V1425-14 – Cindy & Randy Piskula:** Variance from Sec. 11.04(f)9 of the Jefferson County Zoning Ordinance to allow reduction of the minimum side yard setback for a residence in a Community zone. The site is at **W174 Rockvale Road** in the Town of Ixonia on PIN 012-0816-2544-024 (1.34 Acre).

John Kannard presented the petition. He explained the garage was built in 1993 as a garage. In 2008, they removed the mobile home and planned on building a house. In 2010, they converted the garage to the residence. Kannard further explained the setbacks in relation to garage versus house setbacks, and also explained the reasons they meet the three criteria for variance.

There were no questions or comments in favor or opposition of the petition. There was a decision in the file from the town in favor of the petition's request, and was read into the record by Carroll.

Carroll questioned the conversion. Kannard explained the garage had already been converted without a permit.

Staff report was given by Staff. Staff noted the setback request was for 4.57 feet from the lot line. She went on to explain the setback and permit requirements and the additions to the structure. Staff questioned the petitioner on the well. Kannard explained that there was a well inspection for the well located in the basement. DNR will not issue a permit or variance because of it being considered a flood hazard. Staff questioned the physical limitations of the property. Kannard explained that the setbacks were O.K. when it was a garage, but those setbacks are not O.K. for the house.

Carroll questioned the number of structures on the property. Kannard stated there was one. Hoeft questioned the metal structure on the property. Kannard stated it was a storage container. Carroll commented that this was not shown on the survey and was next to the fence. Hoeft questioned the lot line and questioned the well situation. Staff explained that we could not issue permits until the well is situated.

Kannard also commented on the well. Hoeft questioned their ability to live there. Staff explained the possible penalties if the variance was not approved, and that the structure would have to be removed. She also explained that a sewer lateral permit is required.

Hoeft questioned the building over the well. Randy Piskula explained. Carroll questioned if there was another structure involved. Piskula explained the addition and well. Carroll commented on the DNR not giving the variance. Staff explained that this was for the well. She also explained what the Board had to consider and if it meets all three criteria. Carroll questioned if the applicant would be agreeable to certain conditions, if approved. Staff explained what was required. Carroll questioned why this had not been taken care of before. Kannard stated that he did not believe the petitioners were aware of the requirements.

**V1426-14 – Jay Lewellin:** Variance from Sec. 11.04(f)6 and the A-1, Exclusive Agricultural zone permitted principal uses which allow existing residences only, in order to temporarily allow two homes while a replacement home is under construction. The site is at **W8756 Alley Road** in the Town of Lake Mills, on PIN 018-0713-2134-000.

Jay Lewellin presented his petition. He stated that the original structure has been donated to the fire department, and they will be taking care of it by September 20, 2014. Lewellin then questioned if he even needed a variance. There was a discussion between Staff and Lewellin on the requirements and need for variance.

Lewellin explained that his intent is to be on the property while the home is being constructed.

There were no questions or comments in favor or opposition of the petition. There was a town response in the file that approved the request for two years from July 8, 2014 to June 30, 2015 with the condition that the current temporary residence be rendered uninhabitable as described by county zoning within 30 days of the issuance of an occupancy permit, and further conditioned that the building inspector inspect the current temporary residence as soon as possible.

Carroll questioned if the building inspector had conducted an inspection. Lewellin stated that he could not get the inspector out there without the permits.

Staff gave staff report and explained the county requirements including the permit process. She noted that the structure has been hooked up to septic and that the original plans submitted by the petitioner were for an open workshop.

Carroll questioned the removal of the old structure. Lewellin stated that the fire department was scheduled for burning on September 20, 2014 and that the remains would be removed. Carroll questioned if that date had been verified. Staff stated that there was nothing in writing. Lewellin stated that he would get something from the fire department. Hoeft commented on converting the garage to a residence, and once the house is build, to convert it back to a garage. Staff further explained the requirements. Carroll questioned the petitioner if he would be agreeable to conditions, if approved. Lewellin stated that he would be agreeable to just about anything at this point.

**V1427-14 – Paul Antczak/Diane G West Property:** Variance from Sec. 11.09(c) to allow an addition to a non-conforming structure in excess of 50% of the existing foundation footprint. The site is at **N4615 Highland Drive** in the Town of Sullivan on PIN 026-0616-0244-010 (4.155 Acres) and is zoned A-3, Agricultural/Rural Residential.

Paul Antczak presented the petition. They are trying to put on an addition to the back of the home and they do not meet the front setback. They have room on the side and rear, but not the road setback.

John Kannard explained that the Town of Sullivan does not require permits for additions or accessory structures, but the county does need permits. It has to be a new structure for the town to require building permits.

There were no questions or comments in favor or opposition of the petition. There was a response from the town of no objection to the petition which was read into the record by Carroll.

Staff report was given by Staff. She explained the setbacks and noted that they were also requesting a duplex which a conditional use permit is required. The existing footprint was 896 square feet, and the addition was 936 square feet which is doubling the footprint.

Staff noted that the petitioner came in voluntarily. Antczak explained they came in for the garage permit, and were confused about the permits required by the town versus the county. They came in due to the vendors questioning the permits. It was explained that their request was a two part process. They need the variance because of the setbacks and the conditional use because of the duplex.

Hoeft questioned if the town was aware that they can issue and charge for these permits. Kannard explained. Carroll commented that the addition was near 100% of square footage for the addition. Staff affirmed. Carroll commented on the 50% requirements and asked the petitioner to explain how they met the three criteria

needed to approve a variance. Staff clarified with the petitioner the three criteria requirements necessary for the Board to consider, and asked the petitioner to explain why they felt they met the three criteria for variance. There was a discussion regarding the 50% requirements. Antzack explained that this was a mother-in-law suite and that the addition was being designed to meet her needs. Dawn Antzack commented this was a miscommunication on permits. Carroll commented on the hardship & physical limitations. Antzack explained. Carroll commented that hardship cannot be financial or for personal circumstances. Hoeft commented on the criteria requirements especially number two, hardship and questioned the property. Antzack explained.

There was a discussion on exceeding 50% of the footprint and the variance criteria that need to be met, and the difference between a conditional use and variance. Staff explained the appeal process and appeal rights. She also noted that there were only two Board members and explained what would happen if there was a split vote or if the Board tabled the petition to have a three member vote.

Dawn Antczak explained the miscommunication about the permits, and that they took off the summer kitchen and moved the addition back. Carroll requested the petitioner to come to the table and show this on the survey from the file. Antczak approached the Board and indicated what was removed and how it was being reconstructed.

Staff noted that the square footage could not be verified – that we only have the survey. There was further discussion on the square footage and the petitioner's request.

Carroll questioned the petitioner if he was okay with the Board to table the petition for more adequate information on the square footage. The petitioner was okay with that.

## **11. Decisions on Above Petitions (See following pages & files)**

## **12. Adjourn**

Hoeft made motion, seconded by Carroll, motion carried 2-0 to adjourn  
@ 2:48 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](http://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.: 2014 V1425  
HEARING DATE: 08-14-2014

APPLICANT: Randolph S. & Cynthia L. Piskula

PROPERTY OWNER: Same

PARCEL (PIN #): 012-0816-2544-024

TOWNSHIP: Ixonia

INTENT OF PETITIONER: To sanction the conversion of a detached garage to a residence. The structure does not meet the side setback for a principal structure in a Community Zone.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f)9  
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:

An existing detached garage (1993 #35101 Zoning Permit) was converted to a residence without permits. The original detached garage was issued a permit on September 10, 1993 meeting all ordinance requirements. On May 7, 2008, the Piskula's received a permit to remove an existing mobile home and replace it with a single family residence in a compliant location. It was brought to our attention in 2008 that the two detached structures were attached to each other, but the owner's indicated they would remove one of the detached structures, and therefore, bring the property back into compliance. Per the owner, in 2010, the detached structure was converted to a single family residence without permits. In 2014, the Piskula's inquired about adding a garage to the illegal residence. At that time, our department informed the Piskula's they had an illegal residence and could not issue a Zoning/Land Use Permit for the conversion of this structure to a principal structure because the required setback in a community zone is 10 feet, whereas the structure is only 4.57 feet from the lot line. In addition, it was noted that several other additions were added to the structure without permits. The Piskula's have requested a variance to sanction the conversion of the detached garage to a single family residence at a reduced setback.

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.: 2014 V1426

HEARING DATE: 08-14-2014

APPLICANT: Jay D. Lewellin

PROPERTY OWNER: Jay D. & Virginia M. Lewellin

PARCEL (PIN #): 018-0713-2134-000

TOWNSHIP: Lake Mills

INTENT OF PETITIONER: To temporary permit two homes on the property while a new residence is under construction.

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 to temporarily have two dwelling structures on the parcel while the new home is being constructed. The petitioner is proposing to have two residences on this property until June 6, 2016. The petitioner does not state how they will convert the illegal residence back to a detached structure (remove walls, remove bathroom, etc).

Currently, the property is in violation. If the petitioner removed the existing residence and receive a Zoning/Land and Building permits for the conversation of the detached structure to a principal structure, the property would be in compliance.

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 \_\_\_\_\_  
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- 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: \_\_\_\_\_  
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- 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 he needs a permitted place to live while constructing the new home.
- 5. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE property includes the existing garage/residence.
- 6. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE the end result will be one residence. It will be a positive impact.

**\*A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET\***

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

**MOTION:** Hoeft                                 **SECOND:** Carroll                         **VOTE:** 2-0

**CONDITIONS OF APPROVAL:** The old home is to be removed by September 25, 2014. The temporary use of the shop structure as housing is to be negotiated with staff prior to September 17, 2014. All necessary permits are to be obtained by the petitioner.

**SIGNED:** \_\_\_\_\_ **DATE:** 08-14-2014  
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.: 2014 V1427  
HEARING DATE: 08-14-2014

APPLICANT: Paul Antczak

PROPERTY OWNER: Diane G. West

PARCEL (PIN #): 026-0616-0244-010

TOWNSHIP: Sullivan

INTENT OF PETITIONER: To exceed 50% of the existing footprint of the non-conforming structure for an addition and structural modifications of the existing structure.  
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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 existing lot is 4.1 acres. The residence is 40 feet from the right-of-way and 70 feet from the centerline of South Road, whereas the required setback is 50 feet from the right-of-way and 85 feet from the centerline. The petitioner would like to construct an addition to the existing structure. The petitioners have indicated that the footprint of the current residence is 896 sq. ft. The total sq. ft. of the new first story addition is 936 sq. ft. which would be over 50% of the footprint of the non-conforming structure. The proposed addition is proposed on the rear of the existing structure.  
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FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Site inspections conducted. Observed property layout & location.  
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FACTS PRESENTED AT PUBLIC HEARING: See tape, minutes & file.  
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**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 \_\_\_\_\_  
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- 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/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 \_\_\_\_\_  
\_\_\_\_\_
- 8. THE HARDSHIP **IS/IS NOT** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE \_\_\_\_\_  
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\_\_\_\_\_
- 9. THE VARIANCE **WILL/WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE \_\_\_\_\_  
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\_\_\_\_\_

**\*A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET\***

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

**MOTION:** Carroll                               **SECOND:** Hoefft                               **VOTE:** 2-0

**Defer action on petition pending verification of the original footprint of the original structure with staff.**

**SIGNED:** \_\_\_\_\_ **DATE:** 08-14-2014  
CHAIRPERSON

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