

# ***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 THURSDAY, DECEMBER 11, 2014 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 @ 9:30 a.m. by Hoeft

## **2. Roll Call**

Members present: Carroll, Hoeft

Members absent: 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 October 9, 2014 Meeting Minutes**

Carroll made motion, seconded by Hoeft, motion carried 2-0 to approve the October 9, 2014 meeting minutes.

**6. Communications** – Carroll and Hoeft noted they received a letter from Jefferson County Corporation Counsel regarding the Hall appeal.

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

AP1437-14 – David K Hall, **W7730 Lamp Road**, Town of Sumner  
V1434-14 – Michael & Kim Herro Trust, **N5375 Golden Lake Park Road**,  
Town of Concord  
V1435-14 – Michael & Kim Herro Trust, **N5391 Golden Lake Park Road**,  
Town of Concord  
V1436-14 – Mark Schneck/Cross Lutheran Church, **W710 Gopher Hill Road**,  
Town of Ixonia

**8. 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, Weis

Members absent: --

Staff: Laurie Miller, Michelle Staff, Rob Klotz

**9. 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, December 11, 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 and an administrative appeal. 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:

**V1434-14 – Michael & Kim Herro Trust:** Variance from Sec. 11.07(d)2 of the Jefferson County Zoning Ordinance to sanction construction of a deck and screen room at less than the required setbacks to road right-of-way and centerline of the town road. The property is on PIN 006-0716-2543-000 (36.687 Acres) in an A-1, Exclusive Agricultural zone at **N5375 Golden Lake Park Road**, Town of Concord.

Michael & Kim Herro present. Mr. Herro stated they purchased the property approximately 10 years ago. There was an old deck on the house which they ripped off and reconstructed it making it a screened deck. Mrs. Herro stated the house was rebuilt in the 1960's after it had burned. She noted it was a dangerous deck. They started constructing the deck and made it a screened porch. They talked to Tom Marks, building inspector, if they needed a permit who then referred them to the county. Mr. Herro noted that they reduced the size by about 15%, and that it was in the same location as the old deck. Mrs. Herro stated that once they knew they needed a permit, they stopped construction.

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

Staff gave staff report. She noted that it was non-conforming deck and then was removed. It now needs to meet setbacks. She gave the setback requirements and noted that there was no permit on file for the deck.

Carroll questioned the petitioner if they wanted to go closer. Mr. Herro stated that it would be the same at 75'. Weis commented that there was a doorway there and that a deck and stairs were needed for access.

**V1435-14 – Michael & Kim Herro Trust:** Variance from Sec. 11.03(d) of the Zoning Ordinance and 15.04(c) of the Land Division/Subdivision Ordinance to allow access over adjoining property instead of the A-3 zoned lot as approved by the zoning amendment. The A-3, Agriculture/Rural Residential zoned site is at **N5391 Golden Lake Park Road** in the Town of Concord, on PIN 006-0716-2543-002 (1.14 Acres).

Michael Herro presented the petition. He gave the history of the property regarding the lot split and when they built the house. He stated that he had a discussion with the town regarding a new driveway. They have continued to use the existing driveway. He went on to explain the problems with putting in a driveway on his lot, addressed the issue with emergency vehicles, and explained that large farm equipment

was using the farm driveway. Kim Herro stated they wanted to keep the rural character of the property.

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 which was read into the record by Weis.

Staff report was given by Staff. She noted the house was built in 2005, and explained the requirements of frontage and access to a public road. She stated the driveway was shown to the lot. She questioned Michael Herro about having a document from the town that a driveway cannot be put in. Mr. Herro stated that he only had a discussion with the town. Kim Herro noted that they have had a few near misses coming out of the current driveway, and that it's dangerous. Michael Herro commented on using the existing driveway.

Weis commented the lot was a separate, legal parcel that could be sold separately which could be an issue if there was not a separate driveway. Michael Herro talked about an access easement. Weis questioned if this should be an access easement. Carroll commented on the three criteria for decision, and asked the petitioner to explain. Mike Herro stated that it does not lend itself to another driveway. Kim Herro questioned that if this was issued and they wanted to sell, that a driveway would have to be put in. Carroll explained that the Board has to meet the criteria. Michael Herro explained the safety issue.

Rob Klotz explained physical hardship, and that in 1979, there was still a requirement of 66' frontage and access. If they could not meet that, the lot should have never been created. Hoeft questioned Klotz if there could be an easement. Klotz stated that if this was granted, they should get a recorded easement.

**V1436-14 – Mark Schneck/Cross Lutheran Church:** Variance from Sec. 11.08(d) for an on-premises sign and 11.08(k)2.g. to allow a sign within the town road right-of-way at **W710 Gopher Hill Road**, Town of Ixonia. The property is zoned A-1, Exclusive Agricultural and is identified as PIN 012-0816-1124-002 (5.132 Acres).

Mark Schneck presented the petition. He stated that there was no sign, and the sign would provide more visibility for the church. The church is 135 years old. They want the sign to be visible. A 4x4 (16 square feet) sign is being proposed.

Hoeft question if the sign was being proposed where the white flags were located. Mr. Schneck state yes.

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

Staff report was given by Staff. She noted the sign was being proposed in the road ROW. She questioned the petitioner on the setbacks. Schneck explained. Klotz explained there is no other room for the sign.

Hoeft questioned why this was zoned A-1. Staff explained that it is a legal, non-conforming use on an A-1 zoned lot. Weis noted this was perpendicular to the road at a size of 4x4, and that it was off the road on the hill. Carroll questioned if the sign would be illuminated and to what extent. Schneck stated that there would be solar lighting on the top of the sign. Hoeft questioned the sign ordinance on lighting. Staff explained.

The Board made decisions on the above petitions.

There was a short recess @ 2:15 p.m. Attorney Dan Drescher presented a packet to the Board. The hearing was reconvened @ 2:23 p.m.

Attorney Christine Hansen, Jefferson County Corporation Counsel, joined the Board at the table.

**AP1437-14 – David K Hall:** Administrative appeal of Zoning staff decision regarding substantial damage estimate for **W7730 Lamp Road** in the Town of Sumner. The site is on PIN 028-0513-1144-019 (0.138 Acres) in a Waterfront zone.

Hoeft noted they received a letter from Corporation Counsel, that considerable amount of time was spent reviewing the materials, and questioned Counsel on how to proceed. Attorney Hansen explained. Hoeft read a portion of the letter they received from Attorney J. Blair Ward, Corporation Counsel. She had questions concerning the wording of the correspondence. Attorney Hansen explained.

Hoeft asked for statute, ordinance or administrative ruling underlying the statement regarding appeal process. Hansen explained. Hoeft questioned the appeal timeline. There was a discussion among the Board on the appeal. Attorney Dan Drescher addressed the Board regarding the substantial damage evaluations on the property. Rob Klotz explained the substantial damage evaluations/assessment, the changes in ownership, and the msl listing which showed work that had been done on the structure without permits and mold damage. The reassessment done put it over 50% which showed it was now substantially damaged. Klotz went on to explain the timeline of the notices of the damage assessments and the changes of ownership. Hoeft questioned the original damage assessment which was not over 50% and not appealed. Klotz explained. Hoeft questioned how many people were noticed that

were not substantially damaged, but contacted zoning. Klotz explained. Hoeft questioned the letters that were sent out. Klotz explained the notice process and FEMA requirements. Hoeft questioned if there was a letter from DNR. Klotz stated there was an e-mail in their packet/file, and noted that it is required to notify DNR. Attorney Dan Drescher addressed the Board regarding the damage assessments and timelines, and requested that Mr. Hall be allowed to present information regarding the damage assessments and subsequent change in the assessment. Klotz noted that first it has to be determined whether the Board has the standing to hear the appeal. Attorney Hansen addressed the Board regarding Mr. Hall presenting information. There was a discussion with Attorney Hansen and the board on what the options were, and whether or not to give a copy of the letter from Attorney Ward to the petitioner. Mr. Hall commented on another property that was brought before the Board and felt there was a precedent set. Carroll commented that both cases have merit; however, the one has no dryland access. They have to determine whether or not they exercise the option that exists to hear or not hear, or go back to their attorney's opinion and they follow that. They are trying to determine the proper avenue to go. Hoeft noted that she had Staff's correspondence back and forth with DNR. Staff approached the table to point out additional correspondence with DNR. Mr. Hall noted that he did file the appeal within 30 days from purchasing the property. Hoeft commented on the letter from DNR addressing Mr. Hall's appeal, and noted that there was nothing else from the previous owners appeal. Klotz noted that the only appeal in front of them today was Mr. Hall's for the change in the substantial damage estimate which occurred in January and June 2014 and was sent to the owner at the time. Mr. Hall did not purchase the property until October 2014 and missed his appeal time which would have been 30 days from the date of the notice of the change of the substantial damage estimate. Hoeft commented that the right to appeal does not transfer with the property. Klotz explained the appeal is from the notice to the owner and is past the time for appeal. Klotz further explained. Attorney Hansen referred to the Ordinance regarding the appeal process. There was a discussion regarding the appeal time limits with the Board and Attorney Hansen. Klotz also explained. Attorney Drescher commented on the 2008 assessment which they felt was not correct and are also addressing the change in the assessment in 2014. Carroll commented on the time that has gone by and no permits. Hoeft reviewed the previous damage assessments and questioned the June 2014 assessment. Klotz explained. Hoeft questioned if the same criteria was used as some 500 other people. Klotz stated it was. Hoeft commented about not questioning the damage assessment program that was also used for 500 other people. There was a discussion among the Board regarding how to proceed. Klotz also explained the procedure of appeal, or if there was no standing for the appeal, what would be the next steps. Carroll asked for information that the bank had known about the assessment or if the petitioner was aware of the damage assessment at the time he purchased the property. Mr. Hall stated that he did not hear of it from the bank, but learned about it after discussions with zoning staff. Carroll asked when he had the discussions with zoning. Mr. Hall

stated it was about a month before he purchased the property, and that he was told to file an appeal with the Board. Attorney Drescher also made comment. Klotz noted that we are required to notify the owner of the substantial damage assessment. The structure is substantially damaged and needs to be torn down which all inquiries about the property were told. Mr. Hall was also told. There was a discussion among the Board on how to proceed. Attorney Drescher also commented. Mr. Hall requested that this be reassessed properly. Carroll questioned Mr. Hall if there was dryland access. Mr. Hall stated that he believed there was, or if there was a written agreement with emergency services that they would access the property by wheeled vehicle in a flood emergency, and commented that he believed the county had an emergency plan. Mr. Hall asked how to explain the other 20 houses on that road that do not have dryland access. Klotz explained and stated that this was his appeal on his structure. Mr. Hall stated that he believed there was a precedent. Attorney Hansen suggested that the close the evidence, and make a ruling.

Carroll made motion to proceed with the action recommended by the county attorney, seconded by Weis, motion carried 3-0. See attached decision.

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

**11. Adjourn**

Hoelt made motion, seconded by Carroll, motion carried 3-0 to adjourn @ 3:18 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.*

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Secretary

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Date

DECISION OF THE ZONING BOARD OF ADJUSTMENT  
JEFFERSON COUNTY, WISCONSIN

FINDINGS OF FACT

PETITION NO.: 2014 V1434

HEARING DATE: 12-11-2014

APPLICANT: Michael & Kim Herro Trust

PROPERTY OWNER: SAME

PARCEL (PIN #): 006-0716-2543-000

TOWNSHIP: Concord

INTENT OF PETITIONER: To sanction construction of a screen room at less than the required setback to road right-of-way and centerline of a town road.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.07(d)2 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 replaced a deck with a screen room without Zoning/Land Permits. The proposed screen room is 75 feet from the centerline and 30 feet from the right-of-way of Golden Lake Road, whereas the required setback is 85 feet from the centerline and 50 feet from the right-of-way. There is no permit on file for the deck.

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 V1435  
HEARING DATE: 12-11-2014

APPLICANT: Michael & Kim Herro Trust

PROPERTY OWNER: SAME

PARCEL (PIN #): 006-0716-2543-002

TOWNSHIP: Concord

INTENT OF PETITIONER: To allow access over adjoining property instead of the A-3 Zoned lot as approved by the zoning amendment.  
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\_\_\_\_\_  
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THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.03(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 currently using an adjacent property to access this A-3 lot. The A-3 lot was created in 1979 but the new house wasn't built until 2005. The current residence uses the access and driveway at N5375 Golden Lake Rd whereas the ordinance requires each lot to have frontage and ACCESS to the lot. The Zoning/Land Use permit shows the proposed driveway on the existing A-3 lot.  
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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: \_\_\_\_\_  
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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 it's a hardship to not have safe access to a habitable property. It would compound a dangerous road curve. It would add to the current safety problem.
- 5. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE of being due to the errors of issuing and enforcing the conditions of the 2005 building permit. Also because of the slope of the land at the road ROW where the new driveway should be, would add a 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 public interest would be protected. They are making access to the road more safe. It limits road access at the curve. They will be getting the OK from emergency services.

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

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

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

**CONDITIONS OF APPROVAL:** There shall be a filing of an easement of joint access which shall be able to sustain emergency access for fire and emergency vehicles which needs to be recorded. Must also have signed approval from the fire district, emergency services, and township and provide it to the Zoning Department.

SIGNED: \_\_\_\_\_ DATE: 12-11-2014  
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 V1436

HEARING DATE: 12-11-2014

APPLICANT: Mark Schneck

PROPERTY OWNER: Cross Lutheran Church

PARCEL (PIN #): 012-0816-1124-002

TOWNSHIP: Ixonia

INTENT OF PETITIONER: To allow a sign within the town road right-of-way at  
W710 Gopher Hill Rd.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.08(k)2g  
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 sign 34 feet from the centerline of Gopher Hill Road  
and within the right-of-way whereas the ordinance does not allow a sign in the right-of-way.  
A site plan is in the file showing the location of the proposed sign. The proposed sign is a  
4' x 4' on premise sign with the name of the church on it.

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 UNREASONABLY PREVENT THE OWNER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE OR WOULD RENDER CONFORMITY WITH SUCH RESTRICTIONS UNNECESSARILY BURDENSOME BECAUSE the church is entitled to a sign. It is providing general information. Even if lighted, it will not be in the driver's field of vision.
8. THE HARDSHIP IS DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE of how long the church has been there and the placement of the church. The church was there before the road and setback ordinances. They (the road and church) are old and are where they are.
9. THE VARIANCE WILL NOT BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE it will not affect traffic on the roadway. There is limited intrusion on the ROW. They will need to follow the sign ordinance.

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

DECISION: THE REQUESTED VARIANCE IS GRANTED.

MOTION: Weis SECOND: Carroll VOTE: 3-0

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: DATE: 12-11-2014 CHAIRPERSON

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

BEFORE THE JEFFERSON COUNTY BOARD OF ADJUSTMENT

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IN RE THE APPEAL OF  
DAVID K. HALL

FINDINGS, CONCLUSIONS &  
ORDER

AP1437-14

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On November 14, 2014, David K. Hall filed an appeal of the Jefferson County Planning and Zoning Department's substantial damage determination of the structure on the property located at W7730 Lamp Road in the Town of Sumner, Jefferson County, Wisconsin. That appeal was brought before the Board of Adjustment (hereinafter the "Board") on the 11<sup>th</sup> day of December, 2014. The appellant, Mr. Hall, appeared personally and by his Attorney Daniel A. Drescher. The Jefferson County Planning and Zoning Department (hereinafter the "Department") appeared by Robert Klotz and Michelle Staff. Board members in attendance were Janet Sayre Hoeft, Donald Carroll, and Dale Weis, together with the Board's attorney, Assistant Corporation Counsel Christine L. Hansen. Pursuant to published notice, the Board held a hearing on the appeal.

The procedural history of this matter as set forth generally in the Department's December 1, 2014 Memorandum was not disputed. Those facts are as follows: In July 2008 the Department conducted a substantial damage inspection of the structure in question. As a result of the inspection the Department determined the structure to be 45.18% damaged, thereby finding that the structure was not substantially damaged. No appeal was taken of that determination.

The property subsequently went into foreclosure. In January 2014 the property was listed for sale. As a result, the Department received photographic evidence that unpermitted repairs had been done to the structure, as well as other new information that would impact the previous substantial damage assessment. Consequently, the Department conducted a new assessment. The January 2014 assessment revealed that the structure was now 78.48% damaged and,

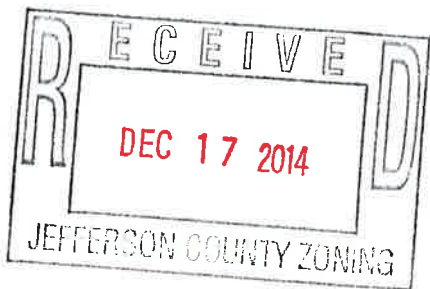
therefore, substantially damaged. No appeal of this determination was taken by the property owner. Mr. Hall later purchased and took possession of the property in October 2014. On November 14, 2014 Mr. Hall appealed the 2008 and 2014 substantial damage assessments to the Board.

The Board took under advisement a letter it had received from its legal counsel, Jefferson County Corporation Counsel J. Blair Ward, who had opined that the Board did not have jurisdiction to consider the merits of the appeal given that Mr. Hall's appeal was outside the thirty (30) day time limits for such appeals as set forth in Jefferson County Zoning Ordinance § 11.11(e)2.b. and Jefferson County Floodplain Zoning Ordinance § 14:7.3(2)(a). At the hearing the Board considered the statements of the parties, and was also directed to a copy of an e-mail in the Department's file wherein a representative of the Department of Natural Resources concurred that Mr. Hall's appeal was outside the thirty (30) day appeal time limits.

Having been provided no legal authority to the contrary by Mr. Hall or his legal counsel, and upon the advice of the Board's legal counsel, Mr. Ward, the Board hereby finds that Mr. Hall's appeal is not timely as it was not filed within thirty (30) days of the Department's July 2008 or January 2014 substantial damage determinations.

WHEREFORE, IT IS HEREBY ORDERED that this appeal is dismissed for lack of jurisdiction and the January 2014 substantial damage determination by the Jefferson County Zoning Administrator is affirmed.

Dated this 17 day of December, 2014.



*filed in  
appeal file  
12/17/14 DM*

JEFFERSON COUNTY BOARD OF  
ADJUSTMENT

BY:

*Janet Sayre Hoefl*  
Janet Sayre Hoefl  
Acting Chairperson

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