

# ***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 JULY 9, 2015 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 **10:00** 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: Hoeft, Carroll

Members absent: Weis

Staff: 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 Weis motion carried 2-0 to approve the review of the agenda.

NOTE: Dale Weis present @ 9:35 a.m.

## **5. Approval of June 11, 2015 Meeting Minutes**

Carroll made motion, seconded by Weis, motion carried 2-0 to approve the June 11, 2015 meeting minutes.

NOTE: Hoeft was not present at the June 11, 2015 public hearing, and, therefore, did not vote.

6. **Communications** – Staff stated the proposed state budget had implications regarding shoreland regulation provisions in which DNR cannot appeal any BOA decisions, nor can DNR comment on any of the petitions unless the BOA specifically requests it. BOA will need to decide on a policy regarding input from DNR if this is approved in the state budget.

Hoeft requested that election of officers be put on the next agenda. Hoeft also requested that “Communications & Public Comment” be added to the agenda.

7. **Discuss County Procedure When Placing Petitions on the Agenda in Regard to Town Decisions**

Weis explained/summarized last’s month’s discussion on this issue with the decision that they want the town’s input with possible individual considerations to possibly come to the hearing with their town’s decisions in hand. Staff noted that Rob Klotz will be meeting with the Town’s Association on this issue. There was discussion on the towns’ fees and their meeting timelines.

Greg David was present and noted this came before the Planning & Zoning Committee. They want the town’s opinion on the petitions.

Carroll made motion to continue to have the town’s input and the Zoning Department to continue their current procedure for town decisions. Weis seconded the motion, and the motion carried 3-0.

8. **Site Inspections – Beginning at 10:00 a.m. and Leaving from Room 203**  
V1462-15 – John & Allie Simon Trust, **N7018 County Road E**, Town of Concord  
V1464-15 – Steve Homann/Marion Homann Property, **N7379 State Road 89**, Town of Lake Mills  
AP1465-15 – Barb Nahmens Trust/Suzanne Chadwick Trust Property, **W6393 County Road A**, Town of Milford  
V1463-15 – Douglas Behm/Douglas & Jerome Behm Property, **N7506 Airport Road**, Town of Waterloo
9. **Public Hearing – Beginning at 1:00 p.m. in Room 205**

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

Members present: Hoeft, Carroll, Weis

Members absent: ----

Staff: Michelle Staff, Laurie Miller

## 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, July 9, 2015 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 appeal of a decision of the Jefferson County Planning and Zoning Committee. 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:

**V1462-15 – John & Allie Simon Trust:** Variance from Sec. 11.04(f)6 of the Jefferson County Zoning Ordinance to temporarily allow two principal dwelling structures in an A-1, Exclusive Agricultural zone at **N7018 County Road E** in the Town of Concord. The site is on PINs 006-0716-0432-000 (32.5 Acres) and 006-0716-0541-001 (8.5 Acres).

John Simon presented his petition. He stated that they want to live in the existing house while building the new house. He has his insurance office in the house and is an industry rep for a seed company using the shed for a warehouse. He needs to be there when the truck arrives. The town board approved what they wanted to do, and if he remembered correctly, he had one year from the date of occupancy to have the old house removed. The old house would be in the driveway so it would be gone. They will be using some of the stuff from the older house for the new house.

There were no questions or comments in favor or opposition of the petition. There was a town response 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 explained the ordinance requirements, and noted that in the past, the old homes have not been torn down, and would encourage the Board should to set a time frame for when the old house needs to be removed so it can be tracked. Staff noted that the petitioner did not ask for a time period. The petitioner stated the response from the township indicated it was one year from occupancy. Staff stated that would be difficult to do because Zoning does not issue the occupancy permit, that's done by the building inspector. Permits are good for two years from issuance. The petitioner explained his timelines for permits and construction.

Carroll noted that in the past, there have been requests that the home remain on the property while constructing, and there have been some instances when after occupancy, the old home was kept in place and used as rental property or for members of the family. The Board would have to set a time limit after the completion of the new structure as to when the old structure would have to come down. The petitioner explained. Staff questioned the petitioner if two years were OK. Petitioner stated yes. Hoeft read a condition set forth by the Board in a previous petition approval regarding the time limits for removal of the old home.

**V1463-15 – Douglas Behm/Douglas & Jerome Behm Property:** Variance from Sec. 11.04(f)6 to reduce A-1 zone minimum lot width for detached garage construction at **N7506 Airport Rd.** The site is on PIN 030-0813-3224-001 (0.715 Acres) in the Town of Waterloo.

Douglas Behm presented his petition. He stated he wants a garage behind the mobile home because the lot is too small, and the secondary septic site is in the front. If they put the garage in the front, they would have to have a variance to the road. Hoeft questioned the location. Behm explained.

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 Weis.

Staff report was given by Staff. She noted that there is no 200' width on the entire lot. The family owns lands around this lot. Staff asked the petitioner if he had explored the purchase of additional lands. The petitioner stated that the family is still using the land for farming. Staff gave the setback requirements and the propose size of the garage.

Hoefst commented on the size and layout of the lot. Carroll asked Staff if this was a legal non-conforming lot. Staff stated it was a legal, conforming lot, and further explained. Weis asked the petitioner when this lot was created. The petitioner stated that his uncle had purchased it in the late 1970's, early 1980's from his father.

**V1464-15 – Steven Homann/Marion Homann Property:** Variance from Sec. 11.05(c)11 to sanction excavation within 50 feet of a property line **near N7379 State Road 89**. The site is comprised of PINs 018-0713-0124-000 (28.33 Acres), 018-0713-0113 (30 Acres) and 018-0713-0112-000 (42.38 Acres) in the Town of Lake Mills.

Steve Homann presented his petition. He stated they would need the variance to operate within 50' of the ROW, and explained. The excavation is over 80% complete. The petitioner explained how he felt he met the three criteria needed for variance approval and made reference to the maps in the file. He noted how it will be restored, and how it will enhance the area and productivity of the soils.

There were no questions or comments in favor or opposition of the petition. Staff noted that she made contact with the DOT, but received no decision back from them. The petitioner stated that he met with the DOT on site, and said they did not have a problem.

There was a town response in the file approving the petition which was read into the record by Carroll. Carroll also read into the record a memo from the Land and Water Conservation Department.

Staff report was given by Staff. She explained parcel lines versus property lines, and noted the petitioner's Conditional Use Permit was approved in January 2013. She stated that excavation was occurring within 50' of the property line. The DOT was contacted, but she has not heard back from them.

Carroll noted that the Board had visited the site today, and that there was no information to show how far they were into the 50', how deep sand was into the 50', and what measures would be taken for public safety in the event there is closer

approach to the highway. The petitioner stated that they were spreading topsoil right now. There is no more sand. Staff asked the petitioner how far he was from the property line – it looked like it was right up to the line. The petitioner stated they were within 10' from the property line. There will be no more excavating. They were only spreading topsoil. Staff asked the petitioner if he was encroaching into the ROW. The petitioner stated absolutely not, and that they were only grading topsoil on their property.

Weis questioned Staff on the reclamation plans for a time frame for restoration at least for this area. Staff stated the Conditional Use Permit was good for 10 years, so there is no time frame for reclamation for this particular area. Weis noted it appears he has violated a condition of his Conditional use permit, and there may be some enforcement possible. Weis went on to state that he wasn't sure it was appropriate for the Board to mandate him to do the restoration. At this point, he felt that this area needed to be reclaimed to its final state as soon as possible, and could not see they meet the test for variance approval, or that they could even begin to approve this, but felt that they should begin to restore this, at least the 50', as soon as possible. Staff explained the enforcement action by Zoning. Weis made further comment on this request being in front of Board. There was further discussion on restoring this area and the request.

**AP1465-15 – Barb Nahmens/Suzanne Chadwick Trust Property:** Appeal of the Planning and Zoning Committee's denial of CU1819-15, a request to sanction multiple dwelling units in a Community zone at W6393 County A in the Town of Milford on PIN 020-0714-0431-010 (1.12 Acres).

Weis made motion to change the order of the agenda and make the decisions on the first three petitions before hearing the appeal. The motion was seconded by Carroll and motion carried 3-0. Decisions on the first three petitions began at 1:48 p.m.

At 2:10 p.m., the Board re-opened the hearing for the appeal.

Barb Nahmens presented the petition. She noted that they were turned down for their Conditional Use Permit request for a condo association. She explained the proposal, and what exists on the property. She commented on the floodplain and septic situation – need new septics, and would like to use a shared driveway but just part of the way down. They felt with two private ownerships, they would take care of the property better than one with a rental unit. There will be no changes in the number of units and there will be a shared well. The preliminary documents for the condo association and maps have been submitted.

Hoelt noted that they have to look at all of the materials given by the UW-Extension, the site, state statutes... This is an administrative appeal process and they need to verify that all these things that are required were done.

Staff explained the options of the Board, and noted that all materials from the Planning and Zoning Committee review were in the file. She also stated that she would be playing the audio from the hearing as well as the decision meeting. Staff explained they would have to find that the Conditional Use Permit was denied if the project failed to meet specific conditional use standards and the general purpose of the ordinance. The applicant has the burden of proof to demonstrate that the Planning and Zoning Committee's decision was incorrect or unreasonable. This is an appeal for a request to sanction multi-dwelling structures in a Community Zone which have non-conforming structures which have been there since 1901. When conditions change, then the property needs to up to today's standards. Staff explained the need for a Conditional Use Permit for condo plat in this zone. Condos are ownership changes, not land divisions. Staff went on to explain the history of the property including the variance and conditional use requests in which copies are in the file.

The audio of both the public hearing and decision meeting which were both in front of the Planning and Zoning Committee for the condo association request was played.

Hoelt requested that Staff look at the file and answer questions as part of the review of the administrative appeal process. She confirmed with everyone that no one was questioning that the Planning & Zoning Committee did have the authority to make the decision on the Conditional Use Permit.

Hoelt noted that the first thing that needs to happen in the appeal process is the application. Staff noted it was in the file and the petitioners did submit it to the department. Hoelt asked about the public notice of hearing. Staff confirmed it was published two times. Hoelt noted the criteria they needed to use to proceed as well as the Plain Meaning Rule. She asked Staff to explain "harmonizing". Staff stated the decision has to be within the purpose and intent of the ordinance and referenced Section 11.05 of the Jefferson County Ordinance under Conditional Uses. Staff also read into the record the "Purpose" from Section 11.01 of the ordinance. Hoelt questioned "conflicting provisions". Staff explained that there could be one area of the ordinance that says you can do something, and another area where it says you can't, or a state law says you cannot do something, but there's another area that says you can. Hoelt asked Staff if there were any conflicting provisions here. Staff stated no and further explained. Hoelt questioned "surplus language". Staff explained that it was similar to conflicting provisions where there is more language about it and it gets more confusing. Hoelt questioned "policy history". Staff explained this is the policy of the department and this was a normal conditional use. Conditional uses are

discretionary. Staff went on to state that it was up to the Board to determine if the Planning and Zoning Committee's decision was reasonable.

Hoeft asked the petitioners if they heard and understood the Planning & Zoning Committee's objections. Jaye Haberman was present. The petitioner stated they were not at the decision meeting. Hoeft asked if they had any response to explain that the Committee's reasons were unreasonable. The petitioner explained that parking was not an issue, and further explained. She also explained the septic situation. Hoeft questioned both septic. The petitioner stated she thought they both were conventional systems. Weis noted there was sewage on the ground from the septic serving the duplex which is a failed septic system. There was further discussion on the both septic. The petitioner noted that occupancy would not change. Hoeft asked the petitioner who currently owned the property. The petitioner stated that the trust owns the property.

Hoeft asked the petitioner about the 2008 flood. The petitioner stated there was water in the basement of the house. The duplex did not have any water.

Staff clarified "harmonizing". It means the provisions are ambiguous which means you could interpret them to be unreasonable or unconstitutional in interpretation. She stated the Board needed to decide if the decision was incorrect or unreasonable. There was discussion on the Board's options on their decision of the appeal.

Carroll stated that the Board still hasn't heard what the appealed is based on and asked where there was error or errors or omissions. The petitioner stated they did not know about the septic. The Planning & Zoning Committee said shared driveway, septic and more ownership. She explained there would only be two occupants.

Weis asked Staff, from a zoning standpoint and parcel size, was the request to create multi-dwelling units possible. Staff stated yes. Weis asked if the property fit the guidelines. Staff stated they meet the density requirements. Weis asked if the Community Zone was consistent with this request. Staff state that in a Community Zone, multi-dwelling units are allowed and it meets the density requirements both under a Conditional Use Permit approval. Weis asked if there were requirements in the ordinance for parking. Staff stated yes. Weis asked if parking on the street met the requirements. Staff read the parking requirements from the ordinance in to the record. Weis noted that the plat showed a significant parking area and commented on the driveway. He asked what the implications were of the floodplain. Staff stated there was a map in the file, and noted that the corner of the house was in the floodplain and the duplex was out of the floodplain. There was a brief discussion on the floodplain. Carroll made comment on flooding and wave action. Weis if asked a house in the floodplain was legal. Staff explained it would be a legal, non-conforming structure until they would reach flood damage in excess of 50% of EAV. She further



explained. This is in the floodway. Weis asked if they could replace the structure if there was flood damage. Staff explained and noted they could not rebuild in the floodway. Hoeft asked Staff to explain floodway versus floodplain. Staff explained. Weis asked about flood insurance. Staff stated that would be up to them and their financial institution.

Weis noted that a mound system would be more desirable, but felt they could have a legal, code-compliant system. Weis also asked about replacing the structures. Staff explained the regulations on the non-conforming structure if this appeal was approved and if the Conditional Use Permit was in effect for the property. Once there is a Conditional Use Permit approval for the property, the approval stays with the property.

Carroll asked for the minutes when this was denied stating why. Staff stated they were in the file and on the tape. Weis asked if there were any other provisions in the ordinance that they needed to be aware of. Staff stated that because of the non-conformity, there are issues for rebuilding the structures in the future. She further explained.

The Board reviewed and discussed the file, the factors of the original requests, the Planning and Zoning Committee decision, the features of the property and the condo documents. Hoeft commented that this addresses the hesitation leading the Planning and Zoning Committee to make their decision. Carroll commented about not wanting to increase ownership numbers. Hoeft noted that it was factored into the Planning and Zoning Committee decision.

Weis commented that it was an allowable use, that they had available parking space, the floodplain is a concern, and constricts the lot for a septic system. He also went on to make comment about the problems with replacing the structures. Staff explained the 50% replacement of structural members requirement of the structure. Hoeft asked about a townhouse versus a condo. Staff explained it's all about ownership, and further explained dwelling units. Weis asked about the condo bylaws. Staff explained, and further explained condos.

Weis noted that non-conformancy is an issue, and he could understand where the Planning and Zoning Committee was out to protect the interest of the public, and where they were coming from. Carroll noted the site is a challenge. Hoeft asked if they would modify this, how would they do it. Weis and Carroll stated they wouldn't modify.

Hoeft read the ordinance in reference to Conditional Use Permits. Carroll stated that regarding the intent, there is nothing the Planning and Zoning Committee failed to

do. He stated the Planning & Zoning Committee had reviewed and discussed the property such as the age of the buildings, the location of the buildings, the area and the flooding and all of it was reviewed. He did not feel that the Planning and Zoning Committee failed in any way reaching their decision, and felt that a reasonable person would have to say that conclusion accepts.

Hoeft noted they have heard from the decision meeting what they were basing their decision on, but could not say that she would have gone so far with a couple of their issues as they did, but could also not say that they were wrong to talk about it. Weis noted that there will never be more room on the lot, and Carroll agreed.

Weis made a motion to support the decision and stay with the findings of the Planning and Zoning Committee. Carroll seconded the motion, and the motion carried 2-1. Hoeft noted that she would have been willing to back to them for a little more modification.

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

## **12. Adjourn**

Weis made motion, seconded by Hoeft, motion carried 3-0 to adjourn @ 3:20 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.: 2015 V1462  
HEARING DATE: 07-09-2015

APPLICANT: John & Allie Simon Trust

PROPERTY OWNER: SAME

PARCEL (PIN #): 006-0716-0432-000

TOWNSHIP: Concord

INTENT OF PETITIONER: To temporary allow two residential structures in an A-1 zone.

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 live in an existing residence while building a brand new residence. There is no proposal for time of removal for the older structure. The new structure must meet all setbacks. A new sanitary system will be required.

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:

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 it's a reasonable request. It would be a hardship not to be able to operate the insurance and farm businesses by the owner/residents, and additionally adds security. Operation of the business and farm requires 24 hour attention.
2. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE the county ordinance creates the need to enforce a time schedule on the removal of the second residence. The property, usage, and security created by the ordinance.
3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE it would be concurrent to 2 years of the land use permit issuance making it consistent with county ordinance. It is a substantial improvement to the area. The specified time restriction will put the property into compliance.

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

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

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

**CONDITIONS OF APPROVAL:** The old home is to be removed within 2 years from the issuance of the zoning permit. The existing structure is to be occupied by the owner/applicant.

SIGNED: \_\_\_\_\_ DATE: 07-09-2015  
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.: 2015 V1463  
HEARING DATE: 07-09-2015

APPLICANT: Douglas Behm

PROPERTY OWNER: Douglas & Jerome Behm

PARCEL (PIN #): 030-0813-3224-001

TOWNSHIP: Waterloo

INTENT OF PETITIONER: To reduce A-1 zone minimum lot width for detached garage construction at N7506 Airport 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 would like to construct a 28' x 32' (896 sq ft) detached garage within an area less than the 200 feet width as required by the A-1 zone. The petitioner is proposing to meet the required 20 foot setbacks. There is no location on the lot that is 200 feet in width. Mr. Behm indicates that the neighboring property is owned by his family.

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 the parcel does not meet the minimum standard, and it has existed since the 1970's. It would be a hardship not to have a garage. Everyone is entitled to a garage. The existing structure and utilities limit placement of a garage.
- 5. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE this lot was a parcel of record before the present zoning ordinance was in effect. The ordinance requirements do not allow for a 200' width – nowhere on the lot has a 200' width. Ordinances have created the limitation of the lot structure and creation of improvements.
- 6. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE placement is consistent with 20' setback requirements. It is far enough away from the road, and leaves room in the front for a home. It improves the existing situation.

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

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

**MOTION:**

**SECOND:**

**VOTE:**

**CONDITIONS OF APPROVAL/DENIAL:**

SIGNED: \_\_\_\_\_ DATE: 07-09-2015  
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.: 2015 V1464  
HEARING DATE: 07-09-2015

APPLICANT: Steven Homann

PROPERTY OWNER: Marvin & Marian Homann

PARCEL (PIN #): 018-0713-0124-000, 018-0713-0113-000, 018-0713-0112-000

TOWNSHIP: Lake Mills

INTENT OF PETITIONER: Excavation closer than 50' to a property line for mineral extraction.  
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\_\_\_\_\_  
\_\_\_\_\_

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.05(c)7  
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 Planning & Zoning Committee granted a conditional use permit for mineral extraction on January 28, 2013. The petitioner has extracted up to the STH 89 ROW whereas the Jefferson County Zoning Ordinance requires a 50' setback from property lines. There is an existing mineral extraction site across the road and north of this site along STH 89 operated by the petitioner. The Jefferson County Planning and Zoning contacted the Wisconsin DOT about the right-of-way encroachment on May 26<sup>th</sup> 2015 and again on July 2, 2015.  
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\_\_\_\_\_  
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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.  
\_\_\_\_\_  
\_\_\_\_\_

### 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 self-created.
- 8. THE HARDSHIP **IS NOT** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE \_\_\_\_\_  
 there are no physical limitations to the property that require a variance.
- 9. THE VARIANCE **WILL** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE \_\_\_\_\_  
 he has violated the conditions of his Conditional Use Permit.

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

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

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

**CONDITIONS OF APPROVAL/DENIAL:**

SIGNED: \_\_\_\_\_ DATE: 07-09-2015  
 CHAIRPERSON (Revised 7/22/2015 to include motion)

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