

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

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

PUBLIC HEARING BEGINS AT **1:00 P.M.** ON APRIL 12, 2018 IN ROOM 205,
JEFFERSON COUNTY COURTHOUSE

CALL TO ORDER FOR BOARD MEMBERS IS AT 10:30 A.M. IN
COURTHOUSE ROOM 203, PRIOR TO THE HEARING

SITE INSPECTION FOR BOARD MEMBERS LEAVES AT 10:45 A.M.
FROM COURTHOUSE ROOM 203, PRIOR TO THE HEARING

1. Call to Order-Room 203 at 10:30 a.m.

Meeting called to order @ 10:30 a.m. by Weis

2. Roll Call (Establish a Quorum)

Members Present: Weis, Hoeft, Carroll

Members Absent: -----

Staff: Matt Zangl, Laurie Miller

3. Certification of Compliance with Open Meetings Law

Hoeft acknowledged publication. Staff also presented proof of publication.

4. Approval of the Agenda

Carroll made motion, seconded by Hoeft, motion carried 3-0 on a voice vote to approve the agenda.

5. Approval of December 14, 2017 Meeting Minutes

Carroll made motion, seconded by Weis, motion carried 3-0 on a voice vote to approve the meeting minutes.

6. Communications and Public Comment

Hoeft noted that she will be absent for the July and October hearings.

Zangl informed the Board that today is severe weather alert day. Depending on how the hearing will go, we may have to play it by ear as to our participation.

Zangl briefly explained the appeal process.

7. Discussion and Possible Action on Act 67

Hoelt asked if Act 67 was law. Zangl stated yes, the act now changes the law. Hoelt asked if this would affect the previous Busse Trust variance request. Zangl stated yes, they can now divide the property as it was originally platted. Weis asked in general about combining parcels. Zangl stated that they are no longer required to do so. They can be sold separately if they were created prior to any zoning ordinance.

Hoelt asked about non-conforming structures. Zangl explained and there was further discussion.

Hoelt also asked about changing the wording on the decision sheets. Zangl stated that he would look into it.

On a different note regarding past petitions, Hoelt asked if the Gremmel petition was all OK and if they have their permit. Zangl stated they were OK and they have their permit. Hoelt also asked about the Schauer petition. Zangl stated we have not issued a permit for that property yet.

8. Site Inspections – Beginning at 10:45 a.m. and Leaving from Room 203

AP1625-18 – Steve Beauchamp/Chris & Denise Winkler Property, Town of Palmyra

V1624-18 – Solid Investments Inc./Eugene Luszczyk, Town of Palmyra

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

Meeting called to order at 1:00 p.m. by Weis

Members Present: Weis, Hoelt, Carroll

Members Absent: ----

Staff: Matt Zangl, Sarah Higgins, Laurie Miller, Blair Ward (Jefferson County Corporation Counsel)

10. 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, April 12, 2018 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 permit issued by the Director of Planning and Zoning. 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; discussion and possible action shall be occur after public hearing on the following:

V1624-18 – Solid Investments Inc./Eugene Luszc: Variance in accordance with Sec. 11.04(f)2 of the Jefferson County Zoning Ordinance to allow an accessory structure on an R-2 lot, PIN 024-0516-2723-000 (38.04 Ac) without the principal structure. The site is in the Town of Palmyra, near **North Blue Spring Lake Drive.**

Derek Luszc represented Solid Investments. He stated the family has lived there for 33 years. There is no principal structure, but they have a home on an adjacent lot. The pole barn is for personal storage, no business use, and will be used by the family. They are proposing a 50'x100' storage structure and a 40'x60' stable. They have already received their Conditional Use Permit approval for 6 horses. Again, this is for personal use – no commercial or business use proposed. They would be allowed alpacas, llamas or horses for a total of 6 and all for personal use. There will be no outside storage. This would be allowed if there was a home on the property.

There were no questions or comments in favor of the petition. Larry Kau, N2316 Mehring Road, Town Board Chairperson, had questions on the lighting proposed. The petitioner stated there would be only lighting for security purposes on the front and back by the entrances. Kau was concerned for the neighbors and would like to see it be shaded between this property and the neighbors.

Steve Beauchamp questioned the petitioner if the lights would have a shroud so it doesn't shine on a neighbor's property. The petitioner stated he would if that's what the Board decided.

Carroll questioned the petitioner on the means of access. The petitioner stated it would be from the home at N1326 through the back of that property for principal access. There are other accesses. There is one from County Road H and one from Blue Spring Lake Drive. They would, however, access through N1326.

There was a town decision in file approving the petition which was read into the record by Weis.

Staff report was given by Zangl. He stated they were asking to be allowed an accessory structure without the principal use. In the R-2, Residential zone, a residence is the principal use. They are not going to have a single family home on this property but use it for the accessory structures – the pole barn and stable. They do own the 2 adjacent properties. .

They have approval for two Conditional Use Permits. The first one was to allow farm-type animals in an R-2, Residential zone. The second one was for an extensive onsite storage structure. Both were approved by the Planning & Zoning Committee on March 26, 2018. Zangl explained the ordinance requirements for both of these requests. Both approvals were conditioned upon receiving the variance approval.

The building will be used for personal, not business use. The primary access will be by the home. Zangl asked the petitioner if they would be keeping the other 2 access points. The petitioner stated yes, for the farmland.

Zangl stated the Blue Spring Lake District put the limitation on 6 animal units so there was no adverse impact on the lake.

Weis asked if it could be sold separately in the future, and felt it was inconvenient to gain access by the house. The petitioner stated the other 2 accesses would remain. Weis commented that the other accesses are not as close to the buildings. The petitioner stated the structure would have access if it was sold separately. There are 2 other accesses.

Hoefl stated they could put a condition on addressing the lighting issue, and asked the petitioner if they would have a problem with that. The petitioner stated that they would be putting up lights which would be no different than on a residential home. Weis stated if the township would feel more comfortable and the petitioner would agree, they could provide a lighting proposal to the town. Kau stated his main concern was that if there were dawn to dusk lights, the neighbors would have to look at. Weis asked if they would put a condition on the variance that the petitioner would have to provide the township with the proposed lighting plan, would it be okay. Kau stated it would address their concern. The petitioner stated that that if they put a home up, it would be no issue with the lights on the home. Kau stated he was concerned about the lighting and didn't want to see any nuisance lighting. The petitioner stated that they would be willing to submit a lighting proposal.

Carroll asked the petitioner what portion was farmed and what was leased. There are currently only 4 acres not being farmed. It has been leased to 1 farmer for 20 years which they renew every year. A portion of where the building is going is farmed. Carroll noted that there is only 1 access to the proposed structure, and that the rest of the accesses are cut off by the farmland. The petitioner explained the accesses and noted that they are accessible during the farming/crop season.

AP1625-18 – Steve Beauchamp: Appeal of issuance of Zoning and Land Use Permit 62225, issued on January 2, 2018 for a 3,984 square foot structure at **W1117 Island Road**, PIN 024-0516-1524-001 (35.027 Ac), in an A-1, Agricultural zone, Town of Palmyra. This is being done in accordance with Sec. 11.11(e) of the Jefferson County Zoning Ordinance.

Zangl explained to the Board the situation going on that brought this here today. He noted that Blair Ward, Jefferson County Corporation Counsel, was also present. Zangl explained that any decision made by the Zoning Department can be appealed, and that process is laid-out in Sec. 11.11 which explains Administrative Appeals. There is a time-line/deadline for that, so each permit that we issue, for example, is published in the newspaper, Sec. 11.15 of the Zoning Ordinance. There are 30 days from the date of publication in which to appeal. The administrative appeal process 11.11(e)2 goes into the procedures for the Administrative Appeal process.

Steve Beauchamp, W1149 Island Road, stated that this is one of many buildings they have been putting up. This is the third property owner that has been there since they have been living there. They have no problem with the permits being issued, but it is nothing more than the kind of lights that are going to be put on it. He asked, is there a bathroom or concrete floor? The owner does not reside at the property. He uses it for a vacation property. The lights on the existing building are destroying their lives for the last couple of years. For the building that they will be putting up, he wants

restrictions which says that there will be shrouds on the lights, that there will be no additions such as concrete, septic systems and furnaces put in this building, that it will be built “as said”. If any additions are going to be put on, he stated that the neighbors should be informed and not through a newspaper, but rather by way of letter saying that you are the adjoining property – this might affect you. We also do not have a lighting ordinance in Jefferson County. He stated that if he could get them to agree making sure that the lights on this property will not be seen by his house, it’s a done deal. He said he cannot stop what is already in progress here.

There was time spent cleaning up the property including human waste in the ditch before the Board did their site inspection. He wants it to be done right, and does not want this building to affect him. He does not want to see this nor does the gentleman that just moved in next door want to see the lights. No one lives at this property yet the lights are on dusk to dawn. They say the lights are for the coyotes. Beauchamp said he can read the paper in his kitchen at 3:00 a.m. He would like to stop them from adding on and adding on.

Both neighbors on both sides of this property are at odds with them. He was trying to get ahold of Chris Winkler many times to speak with him. He just wants to live there and start looking through his telescopes again like he used. He is just here today for the lights. The structure cannot be seen from his house. But the one that was put up 2 years ago, that’s 10 times the size of his house, that can be seen which will have a great effect on how much he would get for his house when he goes to sell it, and it’s not good. He wants to keep the lighting down so it doesn’t cut through his house. He knows he cannot stop the building of the new structure which he sees as better for the horses so they can get out of the barn more often. He just wants to make sure there is no lighting for what he calls harassment.

Larry Kau, Town of Palmyra Chair, stated the existing buildings have excessive lighting, and nothing can be done. They have asked, but they refused. The town sent them a letter. He would ask that the new building have the light shrouded.

Hoelt commented that it sounded like the problem was with the lighting and not the permit. Beauchamp said he couldn’t do anything about the permit, but this is a floodplain and further explained. Hoelt commented about modifying the permit. Beauchamp wants the permit modified so the lighting does not affect him.

Attorney John Tomier, representing the Winklers, asked this appeal request to be denied. Andy and Steve from Rock Solid Investments, were also present. They are working on the building and are the proposed builders. The Winklers purchased this property for themselves and their grandchildren to enjoy. The proposed barn is for hay and equipment for the farm. The building cannot be seen from the house. Beauchamp’s chief concern is the lighting. Rock Solid Investments have proposed a

building plan to construct the hay barn. Winkler needs hay for the horses. The existing barn is not before the Board today. Winkler needs to continue to improve the property to suit their needs to take care of the horses and property. It is zoned properly, and the proposed use is in line with the zone. They use quality materials to build their buildings, and the new building will be constructed to look like the barn. It will add value to the property and also the community. He questioned the floodplain on the property, but noted that the results should be in the file from the DNR. Beauchamp's concern is for the lighting. There is no proposal for lighting on this building because the existing lighting is likely sufficient. They would be willing to talk to Mr. Beauchamp on shrouding.

Carroll asked about the building permit and have they applied. Steve Smith, Rock Solid Investments, N158 Tamarack Road, stated the permits have been taken out. Carroll asked about county regulations regarding lighting. Smith stated there are none. He also addressed the human waste in the ditch, and noted that there wasn't any. It is a gravel path along the fence for the owner. The horses are outside all day and are only brought in at night. The new building will probably have a concrete floor. Winkler had a flood study done, and it's not in a floodplain, which has been approved by FEMA & DNR.

Beauchamp stated they have 3 deep wells. This is the third building being built for hay. There are 2 ponds on this property. He does not want the lights to ruin his life.

Zangl stated this request for an appeal of permit #62225 issued January 2, 2018 by Rob Klotz for an ag structure. Sec. 11.15 of the Jefferson County Zoning Ordinance notes the requirements that all permits are to be noticed in the newspaper. This permit was noticed on January 31, 2018. They have 30 days from that date to appeal the permit. The applicant decided to appeal this permit and that is why we are here today. Zangl stated that the Board may want to look at Sec. 11.11(e) in the ordinance noting sub-section (e) was important and found on page 95 to guide the Board through the process. Zangl read it into the record. What was being appealed is the zoning permit. The Board's thought process should be, was that permit issued in error? Zangl further read Sec. 11.11. In this case, the Board should look at the zoning permit as issued by the Zoning Administrator, and in the eyes of the Zoning Administrator. Lighting is the issue, but there are no ordinance requirements in the A-1 zone as there are in the Business or Industrial Zones which addresses glare.

Zangl explained the permit process. The use fits the use of the area. It is zoned A-1 and they can have an agricultural structure. The use is just a barn and storage, and in an A-1, it can be permitted. There are no bathrooms in this structure so a sanitary permit is not needed, nor is there running water proposed. They can have horses on the property. In 2016, there was a holding tank permit issued for a different structure on the property.

Zangl went through the process for Floodplain/Wetland, and noted there was an email in the file indicating this was not wetland. An engineer and DNR signed off that this was not floodplain. All this information as well as all permits issued for this property is in the file.

Hoeft asked about the minimum amount of lighting on this building. Smith stated there were no plans at this time for lighting on the new barn. Hoeft asked for assurance that the lighting be kept to a minimum. Smith stated they have no control over the owners. Attorney Tomier stated there was no plan at this time to put lighting on the building, and did not think lighting issue could be imposed today. Weis noted that it may be better brought through the township. Zangl stated the town can enact their own ordinance. The county can also, but it's a long process. Weis commented that communication with the township goes a long way.

There was further discussion on lighting. Zangl noted it was important to make a full decision.

There was a break @ 2:05 p.m. Back in Session @ 2:10 p.m.

11. Discussion and Possible Action on Above Petition and Appeal (see following pages and files)

12. Adjourn

Weis made motion, seconded by Hoeft, motion carried 3-0 on a voice vote to adjourn @ 2:35 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.

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

A quorum of any Jefferson County Committee, Board, Commission or other body, including the Jefferson County Board of Supervisors, may be present at this meeting.

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.

Additional information on Zoning can be found at www.jeffersoncountywi.gov

Secretary

Date

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

FINDINGS OF FACT

PETITION NO.: 2018 V1624
HEARING DATE: 04-12-2018

APPLICANT: Solid Investments Inc c/o Eugene Luszc

PROPERTY OWNER: SAME

PARCEL (PIN #): 024-0516-2723-000 – Corner of Blue Spring and CTH H

TOWNSHIP: Palmyra

INTENT OF PETITIONER: Construct an accessory structure without the principal use in a R-2 district. Looking to build a one structure 40' X 48' barn/stable and a 64' X 96' pole barn that will be attached to barn/stable.

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

CU 1942-18 for farm animals in an R-2 zone - Approved 3/26/18 allowing up to 6 animals

CU 1941-18 for extensive on-site storage in an R-2 zone – Approved 3/26/18 conditioned upon a variance

Petitioner owns adjacent PIN 024-0516-2732-020 with single family home. Also own vacant lot PIN 024-0516-2732-021

Section 11.03 (f) 2 – Accessory uses and structures are permitted in any zoning district only when principal structure is established

Town Response: In favor

Any business use? Storage of applicant's personal property? Height of building? Access?

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 need to have storage for extended family possessions. Looking for a place for up to 6 farm animals. This is strictly personal use, not commercial. This parcel of land is physically being farmed as agricultural which would allow the proposed improvements, but is zoned R-2. Carroll Opposed: Use is not adverse.
2. THE HARDSHIP IS DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE this is a separate parcel but adjoins the same-owner parcel with a house. The big parcel is farmed under lease. In proximity to Blue Spring Lake, this parcel has been designated as R-2. Carroll Opposed: Should have an access to the road which is does not.
3. THE VARIANCE WILL NOT BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE with the 6 animal restriction, the Lake District approves. With the exterior lighting settled, the town is happy. The township has OK'd the variance with concerns on lighting which are addressed in the motion. Carroll Opposed: Probable future adverse effect.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS GRANTED.

MOTION: Hoeft SECOND: Weis VOTE: 2-1

CONDITIONS OF APPROVAL: Exterior lighting plan to be submitted to the township for approval before the issuance of permit.

SIGNED: CHAIRPERSON DATE: 04-12-2018

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.: 2018 AP1625
HEARING DATE: 04-12-2018

APPELLANT: Steve Beauchamp

PROPERTY OWNER: Chris/Denise Winkler

PARCEL (PIN #): 024-0516-1524-001 W1149 Island Road

TOWNSHIP: Town of Palmyra

INTENT OF APPELLANT: Appeal the issuance of Zoning and Land Use Permit #62225 issued 1-2-2018 by Rob Klotz – Jefferson County Director of Planning and Zoning pursuant to Section 11.11(e) of the Jefferson County Zoning Ordinance.

THE FEATURES OF THE PROPOSED CONSTRUCTION AND PROPERTY WHICH RELATE TO THE GRANT OR DENIAL OF THE ZONING PERMIT ARE:

- Permit 62225 issued 1-2-2018 for a 3,984 sq. ft. Agricultural Structure
- Sec. 11.15 - Zoning permits are published once a month (published 1-31-2018)
- Sec. 11.11(e)1.a – Decisions of the Zoning Administrator can be appealed
- Sec. 11.11(e)2.b – Appeals shall be commenced within 30 days of publication
- Sec. 11.11(e)2.e – Board shall determine if the permit was issued in error

- Proposed location mapped as a wetland and floodplain
 - Wetland: Email from DNR (Travis Shroeder) 9-30-2013
 - Floodplain: Letter from DNR (Rob Davis) 12-21-2017
- Zoned A-1: Agricultural barn is permitted

- Permit 59986 issued 10-1-2013 for fill in floodplain
- Permit 59985 issued 10-1-2013 for a lean-to
- Permit 59984 issued 10-1-2013 for riding arena and horse barn

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 BOARD

The Board of Adjustment, based on testimony heard during a public hearing held on Thursday, April 12, 2018, and the facts presented and found in the file, finds that the Zoning/Land Use Permit #62225 issued on January 2, 2018, was not issued in error.

The specific facts which are the basis of the Board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application are as follows: _____

 In review of the testimony, there was evidence to support there was no error in issuing the permit. The person bringing the objection stated that he did not object to the permit, but only to the potential lighting. Lighting is not a part of the current Zoning Ordinance.

 The Board of Adjustment affirms the decision of the Planning & Zoning Department in issuing the permit that was issued in accordance with the Zoning Ordinance and State Statutes which is demonstrated by official record of the Planning & Zoning Department and the Board of Adjustment Hearing.

MOTION: Carroll **SECOND:** Weis **VOTE:** 3-0
SIGNED: _____ **DATE:** 04-12-2018
SECRETARY

SIGNED: _____ **DATE:** 04-12-2018
CHAIRPERSON

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