

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 JULY 12, 2018 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 Weis

2. Roll Call (Establish a Quorum)

Members present: Weis, Carroll, Roberts

Members absent: Hoeft

Staff: Matt Zangl, Laurie Miller, Lindsey Schneider

3. Certification of Compliance with Open Meetings Law

Staff presented proof of publication.

4. Approval of the Agenda

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

5. Approval of June 14, 2018 Meeting Minutes

Carroll made motion, seconded by Weis, motion carried 2-0 on a voice vote to approve the agenda.

Note: Roberts abstained – not present at the June 14, 2018 hearing.

6. Communications and Public Comment

None

7. Discussion Regarding September 24, 2018 Workshop at Middleton Public Library for Zoning Boards of Adjustment and Appeals

Zangl noted that Board may find an interest in the workshop, and can attend.

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

V1634-18 – Daniel & Toni Zastrow, near N5307 Mud Lake Road, Town of Lake Mills

V1632-18 – Donna Christian/Damrow Trust Property, State Road 16, Town of Ixonia

V1631-18 – Joshua Spiegelhoff, W147 County Road B, Town of Concord

V1633-18 – Kent & Carol Westendorf, N323 Tamarack Road, Town of Palmyra

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

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

Members present: Weis, Carroll, Roberts

Members absent: Hoeft

Staff: Laurie Miller, Matt Zangl, Sarah Higgins, Lindsey Schreiner

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, July 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. 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 may occur after public hearing on the following:

V1631-18 – Joshua Spiegelhoff: Variance from Sec. 11.09(c) of the Jefferson County Zoning Ordinance to allow an expansion of a nonconforming structure at **W147 County Road B** in the Town of Concord, on PIN 006-0716-1311-000 (3 Acres). The property is zoned A-1, Exclusive Agricultural.

Josh Spiegelhoff, W147 County Road B, presented his petition. He stated he would like to put on an attached garage to the house. The house was built prior to 1900, and the front of the house is about 45' off the road which makes it nonconforming. They could go smaller but it would only be about 600 square feet. He would like to go bigger for the additional storage due to his basement regularly flooding in the spring. With the house being so close to the road, this would shield off the road so the kids are kept in the backyard. They also have elderly grandparents that visit so this would be a direct entrance into the house.

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

Zangl gave staff report. He noted this was a non-conforming structure being too close for the allowed setbacks. The house was built over 100 years ago and the house is too close to the road. He referenced 11.09(c) non-conforming section of the ordinance. They would be allowed an expansion up to 50% of the footprint and structural members which would be about a 600 square feet addition without the variance. They need the variance to exceed those limits for the addition to the non-conforming structure.

There are no permits on file for any of the structures which were probably constructed pre-1970. The Highway Department had no problems with the request, and there is correspondence in the file. Zangl noted that the septic setback would

have to be met otherwise they would need a variance from the state. Zangl asked the size of the addition. The petitioner stated that it was 30' by 40'. Zangl noted that it looks like it also includes a mudroom for a connection to the house. Zangl asked if it would be a 1 or 2 story garage. The petitioner stated it would be 1 story.

Weis read the response from the Highway Department into the record. Zangl noted the Highway Department would have to be contacted for any sort of permits if they were doing any work in the ROW. The petitioner stated they would be using the existing driveway and accessing from the back of the garage, and that the driveway access was staying exactly where it is now.

Zangl stated that the setback requirements to the road were 110' to the centerline and 50' to the ROW. The proposed addition will meet the ROW setback, but not the centerline. Weis commented on the road width. There was further discussion on the road. Weis also made note that the petitioner stated they have an older, wet basement so they needed the extra space for dry storage. Roberts asked the petitioner about the overlap between the garage and the house. The petitioner stated it would be 20'. Roberts asked the petitioner about moving it back 6' to the south to meet the setback requirements. The petitioner stated that the kitchen entrance is where they will be attaching the garage.

V1632-18 – Donna Christian/Damrow Trust Property: Variance from Sec. 11.03(d)1 of the Jefferson County Zoning Ordinance to allow creation of proposed lots on State Road 16 without frontage on and access to a public road. The sites are at **W1813, W1811 and W1809 State Road 16**, on PINs 012-0816-1744-000 (39.21 Acres) in the Town of Ixonia. The property is currently zoned A-1, Exclusive Agricultural.

Alex, S1W33857 Abbotts Road, Oconomowoc, presented the petition. He asked that they be allowed the creation of the lots. Weis asked if they were parceling off the land in pieces to sell off. The petitioner stated they were trying to divide it up.

There were no questions or comments in favor or opposition of the petition. Weis noted there was a statement from the DOT in the file. Zangl explained there was a driveway permit/sign off for the existing driveway access and also for the creation of the new lots. He also noted there was an agreement/easement with the railroad for them to access over the railroad to the proposed lots in the file.

Staff report was given by Zangl. He stated there are currently 3 houses on the south side of the railroad. There is 1 on a separate parcel which could be sold separately, and the larger parcel has 2 homes. Zangl asked the petitioner how long they have been there. The petitioner did not know. Zangl stated that they were out on site inspections and estimated the homes to be pre-1900. They were looking to divide up

the land to put the houses on their own lots. Zangl stated they need to rezone to put a lot around the home. He noted this was on the Planning & Zoning Public Hearing agenda for a proposed rezoning.

Zangl referenced 11.03(d)1 which refers to frontage and access. This is unique because the railroad divides the parcel from the road. Technically, they have no frontage or access because the railroad cuts them off from the road access. There is DOT and railroad sign-off in the file. They are keeping the existing access to be shared by all 3 lots. He has gotten ahold of the railroad co. and they have an agreement to use the existing access. Access would then be by easement which would be included on the CSM, pending the approval of the rezone, and it will be recorded. The driveway is over another property and the railroad. The lot has frontage along the railroad. Zangl further explained. There is town approval, DOT approval, and approval from the railroad.

Carroll questioned the access to the existing property and the use. Zangl stated the use is not going to change. The driveway is currently being used for access. Carroll confirmed that there was 1 access and 1 use. Zangl stated that it is used currently for 3 homes, and in the end, it will still only be used for 3 homes. The number of cars per day is not drastically changing, and there will be the same number of residential buildings.

Weis commented that this allows them to market it as 3 lots. Zangl further explained that this would allow them to sell the houses singly. Weis asked that if it was not allowed, would it still be illegal or grandfathered in. Zangl stated it would be still legal, but non-conforming. The town wanted to make the ROW bigger on the east side of the property for Hilltop Lane and will dedicate land to the town for future use.

Roberts questioned if they could do more houses, lots, or driveways. Zangl stated they could not add any more houses. If they would request that, they would have to go through all the approvals again with zoning, DOT, and railroad. They would still have the potential to have future lots, but it would be off of Hilltop Road which has a more controlled access. Roberts commented that these lots may, in the future, be accessed off of Hilltop Road. There was further discussion on access, future access, and a frontage road.

V1633-18 – Kent & Carol Westendorf: Variance from Sec. 11.07(d) and 11.09(c) of the Jefferson County Zoning Ordinance for reduced setbacks to Tamarack Road and to allow an addition to a non-conforming structure. The site is at **N323 Tamarack Road** in the Town of Palmyra, on PIN 024-0516-3523-004 (0.71 Acre). The property is zoned A-1, Exclusive Agricultural.

Kent Westendorf (N323 Tamarack Road) presented his petition. He stated that in 2012, he was granted a variance for a detached garage at 45' to the ROW and 75' to the centerline. At that time, there was a future plan to connect it to the house with a multi-purpose room that would be as the same setback as the house. The front of the garage lines up with the house at the same setback, and the addition would be at the same setback. Weis clarified that there would be nothing closer to Tamarack Road. The petitioner stated right.

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

Staff report was given by Zangl. He stated that the 2 structures are too close to the road, one being approved by variance. They want to connect the 2 structures, and they now need the variance because they don't meet the setbacks, and because one of the structures already has a variance. This area has all pre-1978 lots, and all houses are in line. The previous variance allowed the garage. They want to attach the garage to the home.

Required setbacks are 50' to the ROW and 85' to the centerline. The structures are about 75' from the centerline. The addition is not coming any closer to the road and would be set back a bit from the house and detached garage.

Roberts asked since the addition will meet the setbacks, the reason they need the variance is because the house does not meet the setbacks. Zangl state that was correct and it was because they have a previous variance for the structure to be there in the first place.

V1634-18 – Daniel & Toni Zastrow: Variance from Sec. 11.03(d)1 to allow creation of a proposed Natural Resource zone on PINs 018-0713-3622-000 (40 Acres), 018-0713-3623-000 (40 Acres) and 018-0713-3632-000 (53.13 Acres) without frontage on and access to a public road. The site is near **Mud Lake Road** in the Town of Lake Mills.

Toni Zastrow (N5307 Mud Lake Road) presented the petition. They are selling a portion of the property that is in the Wetland Restoration Program with an easement access. The easement was because access would have to come within 20' of their home. They had concerns if it was bought by DNR, public access would then be within 20' from their home. DNR already owns property to the south and the west of this property which has access so they would not need another access to this.

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

Staff report was given by Zangl. He stated that this was in front of the Board about 1 year ago. At that time, they were keeping all the land zoned A-1. It is now on the Planning & Zoning public hearing agenda to rezone it to Natural Resource. It's all wetland and floodplain, and it's in the Wetland Reserve Program. Zangl referenced 11.03(d)1 regarding frontage and access.. This property is tucked way back in and will have access, but not by ownership because the proposed parcel does not touch the road. So, they are asking for access over easement. That easement will run back to the land. In the past, the Board has approved this type of request if was Natural Resource zone only. The Natural Resource zone is used for recreational activities. The previous variance request was denied as a result of it being A-1 lands.

Weis asked if the DNR was buying the land. The petitioner stated it was a private purchase, but had concerns if they sold it to DNR. Weis asked about the access. Zangl explained. Weis asked about the width of the easement. The petitioner stated it would be the existing farm driveway. Zangl noted that based on the preliminary survey in the file submitted by Anderson, they are proposing a 30' access easement. This survey also shows the house and fire number. Weis asked, based on previous discussion, will there be land that could be farmed. Zangl stated not in a Wetland Reserve Program. The 30' easement puts them about 60' from their house. Weis reviewed the previous variance request and decision.

Roberts asked for clarification of the distance between the house and easement. Zangl stated about 90'. Roberts made comment about putting a buffer between the easement and the house.

Zangl stated that any development is severely limited because it's all floodplain, wetland, and flood storage. The petitioner stated that no one could build back there. Roberts ask if it was all in the Wetland Reserve Program. The petitioner stated yes. Zangl said there should be a copy of that area on a map in the file. Weis noted that it was recreational lands by nature.

11. Discussion and Possible Action on Above Petitions (see following pages & files)

12. Adjourn

Roberts made motion, seconded by Weis, motion carried 3-0 on a voice vote to adjourn @ 2:31 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 V1631
HEARING DATE: 07-12-2018

APPLICANT: Joshua Spiegelhoff

PROPERTY OWNER: Joshua & Stephanie Spiegelhoff

PARCEL (PIN #): 006-0716-1311-000 W147 County Road B

TOWNSHIP: Concord

INTENT OF PETITIONER: Construct an attached garage to a non-conforming structure

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:

- Sec 11.09(c) – additions to a NC structure limited to 50% footprint addition and 50% structural members addition
- Existing footprint = 1,350 sq. ft.
- Proposed addition is 1,200 sq. ft.
- Proposed addition does not go any closer to the road
- No permits on file for any structures
- County Hwy does not have any problems with the structure
- Town of Concord approved 6-17-2018
- Setback to septic tank?

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.: 2018 V1632
HEARING DATE: 07-12-2018

APPLICANT: Donna Christian

PROPERTY OWNER: Damrow Trust

PARCEL (PIN #): 012-0816-1744-000 W1809-13 State Road 16

TOWNSHIP: Ixonia

INTENT OF PETITIONER: Subdivide a parcel and create two lots without frontage along a public road (access by easement/agreement over railroad), lots will be created around existing homes

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.03(d)1 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:

- Sec 11.03(d)1 – all lots shall front and have access along a public road for 66'
- Currently, it is 1 parcel/lot with 2 residential homes and ag buildings with existing access over the railroad tracks to State Road 16
- Landowner would like to create 1 A-3 lot around an existing home
 - access over railroad to State Road 16 and by easement using the existing driveway access
 - 1 access point shared by easement for both lots (see prelim CSM)
- Rezone to A-3 on July Planning/Zoning Committee and August County Board
- DOT permits issued
- Railroad agreement in place
- Town approval 6-11-2018

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.: 2018 V1633

HEARING DATE: 07-12-2018

APPLICANT: Ken & Carol Westendorf

PROPERTY OWNER: SAME

PARCEL (PIN #): 024-0516-3523-004 N323 Tamarack Road

TOWNSHIP: Palmyra

INTENT OF PETITIONER: Create an addition that will attach the garage to the house

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.07(d) & 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:

-11.07(d) road setback – 50' from ROW and 85' from road centerline

-11.09(c) non-conforming structure addition limited to 50% footprint addition and 50% structural members addition

-Variance for garage approved in 2011 (V1376-2011)

-Permit #59034 issued 10-14-2011

-Petitioner would like to attach the garage to the house

-House and garage are 75' from CL of road

-Town approved petition

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.: 2018 V1634
HEARING DATE: 07-12-2018

APPLICANT: Daniel A & Toni D Zastrow

PROPERTY OWNER: SAME

PARCEL (PIN #): 018-0713-3622-000, 018-0713-3623-000 & 018-0713-3632-000

TOWNSHIP: Lake Mills

INTENT OF PETITIONER: Create a Natural Resource zone without frontage
and access along a public road

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.03(d)1 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:

-Parcels to be rezoned from A-1 to NR (decision meeting in July and County Board
action in August)

-Sec 11.03(d)1 – all parcels shall front and have access along a public road for 66'

-Propose to access lot by a 30' easement

-V1597-2017 denied 05-11-2017

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

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

