

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

Dale Weis, Chair; Janet Sayre Hoeft, Vice-Chair; Aari Roberts, Secretary

**PUBLIC HEARING BEGINS AT 9:30 A.M. ON TUESDAY, APRIL 21, 2020 Via Zoom Videoconference
r in Room 205, Jefferson County Courthouse, 311 S. Center Ave., Jefferson, WI**

**PETITIONERS OR MEMBERS OF THE PUBLIC MAY ATTEND THE MEETING VIRTUALLY BY
FOLLOWING THESE INSTRUCTIONS IF THEY CHOOSE NOT TO ATTEND IN PERSON:**

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Meeting ID: 304 745 960#

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**PETITIONERS, OR THEIR REPRESENTATIVES, MUST PARTICIPATE BY EITHER USING ONE OF THE
ZOOM MEETING OPTIONS DESCRIBED ABOVE, OR BY ATTENDING IN PERSON.**

1. Call to Order-Room 203 at 9:30 a.m.

Meeting was called to order at 9:31 am by Chairman Weis.

2. Roll Call (Establish a Quorum)

Members present: Weis, Roberts, and Hoeft

Members absent: N/A

Staff: Zangl, Higgins, and Schreiner

3. Certification of Compliance with Open Meetings Law

Staff provided proof of publication.

4. Approval of the Agenda

Hoeft made motion, seconded by Roberts, motion carried 3-0 on a voice vote to approve the agenda with the modification to move petition number V1660-20 (Work) to the end of the hearing.

5. Approval of November 20, 2019 and March 12, 2020 Meeting Minutes

Roberts made motion, seconded by Hoeft, motion carried 3-0 on a voice vote to approve November 20, 2019 meeting minutes.

Roberts made motion, seconded by Weis, motion carried 2-0 on a voice vote to approve March 12, 2020 meeting minutes. Hoeft abstained from the vote, as she was not present at the March Public Hearing.

6. Communications

None.

7. Public Comment on Items Other Than Those Slated for Decision

None.

8. Public Hearing

9. Explanation of Process by Board of Adjustment Chair

The following was read into the record by Chairman 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 9:30 a.m. on Tuesday, April 21, 2020 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. An AREA VARIANCE is a modification to a dimensional, physical, locational requirement such as the setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of adjustment. A USE VARIANCE is an authorization by the board of adjustment to allow the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance. 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, a petitioner for an AREA VARIANCE bears the burden of proving “unnecessary hardship,” by demonstrating that 1) strict compliance with the zoning ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose, or 2) would render conformity with the zoning ordinance unnecessarily burdensome. A petitioner for a USE VARIANCE bears the burden of proving that 3) strict compliance with the zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance. Variances may be granted to allow the spirit of the ordinance to be observed, substantial justice to be accomplished and the public interest not violated. Discussion and possible action may occur after public hearing on the following:

V1660-20 – James Work: Variance from Sec. 14.4.3(2) of the Jefferson County Floodplain Ordinance to allow for an accessory structure in a Residential R-2 zone to be placed at ground level within the flood fringe at **W7671 Lamp Rd.** The site is on PIN 028-0513-1233-011 (0.11 Ac) in the Town of Sumner.

PETITIONER: Jim Work (598 Dodge Street, LeClarie, IA) explained the application that is included in the file. Work bought the property and raised the home above the flood elevation. He stated that the previous director, Rob, informed him that he could also rebuild the shed that once existed there as long as he followed FEMA guidelines. Prior to building the small shed, gas and other material were being stored in the crawl space of the home. At one point when it flooded, the water dumped over the gas into the flood waters. At times while the gas and other material were being stored in that location, one could smell gas fumes in the home. He went on to explain the construction of the shed. There will be flood vents installed. There is a hardship because the rule unreasonably wouldn't allow him to maintain his property and store lawn equipment. These things cannot be stored outside because they have gotten stolen in the past. Work stated that the storage of those materials will be stored above the 2008 flood level. He believed he follows all FEMA guidelines. He has bolted down the shed to be anchored and has used flood resistant material. He follows the guideline that the shed shall not be used for habitation, and he has worked with an engineer to verify that anchoring was done properly. He believes allowing this shed will preserve and control the quality of the water. Work also explained that the reason he needs this variance is so that he would not be required to raise the shed with fill. Raising it with the amount of fill that would actually be required would not be possible based on the slope that would be constructed and where the end of the slope would end. It would run onto the neighbor's property and impact the well.

COMMENTS IN FAVOR: None.

COMMENTS OPPOSED: None.

REBUTTAL: None.

QUESTIONS FROM COMMITTEE: Roberts asked what Work originally did with the material when it flooded. Work responded that he would try to monitor water levels from their home in Iowa, and when he could make it to the property in time he would remove the items with a trailer. He stated that they have lost a mower in the past. Due to his traveling requirements for work, he isn't able to make it up to the property prior to the lake flooding. Roberts asked if he has a plan/method to get the material up and out of the 2008 flood level. Work responded that he is aware where that elevation exists on the shed and has shelving above that level. He also hoists the push mower up off the ground with a rope. Roberts asked about the construction of the shed. Work went into describing the weather and even tornado resistant

material the shed is constructed out of. It has pressure sheeted lumber and stainless steel nails and fasteners. Anchors are drilled into the concrete underneath the shed.

STAFF REPORT: Given by Zangl and in the file. Zangl explained to the committee that the property was in the floodway and flood fringe. He explained the requirements of each from the floodplain ordinance. He also discussed the letter that was submitted by the DNR, and stated that there was no clear indication of approval/denial in the letter.

TOWN: Approved 01/13/2020 and in the file.

V1661-20 – Asphalt Contractors, Inc: Variance from Sec. 11.05(c)11 of the Jefferson County Zoning Ordinance to allow excavation for mineral extraction within 50 feet of a property line near **W8627 Hope Lake Rd**, Town of Oakland. The affected PINs are 022-0613-0313-000 (40 Ac) and 022-0613-0341-000 (40.04 Ac) owned by Gregory, Paul & Donna Crossmann; 022-0613-0342-000 (30.5 Ac) owned by the Willard & Louida Draeger Trust; and 022-0613-0314-000 (40 Ac) owned by Mary & Robert Hollenberger. The properties are zoned A-1, Exclusive Agricultural.

PETITIONER: Robert Kordus (1701 Main Street, Union Grove, WI) stated that he is the owner of Asphalt Contractors. Attorney Mitchell Olson (2 E. Mifflin Street, Suite 200, Madison, WI) explained that they are proposing a non-metallic mining site that involves three different parcels with three different ownerships. There is a 50' setback requirement that disables transportation to be connected between the parcels owned by different property owners. The project could not reasonable proceed without the approval of this variance. All owners support the mining operation and the use of this road to connect the operation amongst the different parcels. This would reduce the travel on Hope Lake Road, and would be a better option for public safety.

COMMENTS IN FAVOR: Karl Wilock (1701 Main Street, Union Grove, WI) was also in favor. Tom Amon (1701 Main Street, Union Grove, WI) was also in favor of the petition and explained that he was the individual to make arrangements between all the land owners. He explained that aggregate production is depleting in Jefferson County and this operation would be very beneficial. The request is for road access and there is an agreement amongst all the property owners. Access for the Crossman's farming operation will not be impacted. They are only asking for the variance of the road and the 50' setback to make the operation fit together. This would be a safer option, and without this approval, the operation would not be safe, efficient, or practical.

COMMENTS OPPOSED: None.

REBUTTAL: None.

QUESTIONS FROM COMMITTEE: Weis asked if there was an existing operation near this location. Amon confirmed that Jefferson County utilized the location as a gravel pit previously and it was reclaimed. Roberts asked where the gravel extraction would take place and if there is a need for any additional variances to accommodate those setbacks. Kordus explained the location on the map and stated that the extraction setbacks will be met. Roberts asked questions regarding access. Kordus explained. Hoeft asked how the Lake District is involved with this proposed operation. Kordus responded that they have been in communication with the District and have been working closely with them. There will be clean water moved from the site down towards their marsh. Kordus explained that he is willing to accommodate their requests.

STAFF REPORT: Given by Zangl and in the file.

TOWN: Approved 03/17/2020 and in the file.

V1662-20 – Robert Fritch/Heather Lang Property: Variance from Sec 11.09(c) of the Jefferson County Zoning Ordinance to allow an addition to a non-conforming structure exceeding 50% of its existing foundation footprint, and in excess of 50% of the structural members of the existing structure. The site is at **W4193 State Rd 106** in the Town of Hebron, on PIN 010-0615-3241-001 (3.163 Ac) in an A-1, Exclusive Agricultural zone.

PETITIONER: Heather Fritch and Robert Fitch (W4196 State Road 106 Fort Atkinson, WI 53538) explained they would like to put an addition on the house to make it more livable. They are proposing 16.5' off the east side of the house that includes a bathroom, bedroom, and small family room addition. Fritch explained the site plan to the board. The additions will not be getting any closer to the road. He went onto explain that the second floor has very low, unlivable ceilings and

that is why they would like to expand the second floor. Fritch also explained they would like to replace the existing porch that has reached its life cycle with a new wrap around roofed porch. It would not be enclosed. They will also be relocating the driveway access to address water concerns and for safety.

COMMENTS IN FAVOR: None.

COMMENTS OPPOSED: None.

REBUTTAL: None.

QUESTIONS FROM COMMITTEE: Weis asked if the setback from the road will be improving. Fritch answered it will be 2 inches further away. Weis stated that the proposal doesn't interfere with the well to the west. He then asked if they will be interfering with the septic tank. Fritch responded that the building sewer would have to be moved, but all setbacks would be met. Roberts asked where the main access to the home is. Fritch explained. Roberts asked if the setbacks from the road could be improved. Roberts ran through several different scenarios of different locations for the addition.

STAFF REPORT: Given by Zangl and in the file. Zangl clarified the road setback requirements. The setback requirement goes well into where the home exists now and that the Highway 106 expansion nearly doubled the road right of way. There was clarification that no matter where the addition was proposed, it would not meet setbacks.

TOWN: Approved 03/18/2020 and in the file.

10. Discussion and Possible Action on Above Petitions

11. Adjourn

Weis made motion, seconded by Roberts, motion carried 3-0 on a voice vote to adjourn the hearing at 11:48 am.

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 at the Jefferson County Courthouse in 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

Minutes prepared by: Lindsey Schreiner
Zoning/On-site Waste Management Technician
Jefferson County Planning and Zoning Department


SECRETARY JP

6.11.20

DATE

DECISION OF THE ZONING BOARD OF ADJUSTMENT
JEFFERSON COUNTY, WISCONSIN

FINDINGS OF FACT

PETITION NO.: V1661-20

HEARING DATE: 4/21/2020

APPLICANT: Asphalt Contractors, Inc.

PROPERTY OWNER: Willard F & Louida A Draeger Trust; Gregory D Crossman and Paul R & Donna Crossman; Mary A & Robert Hollenberger

PARCEL (PIN) #: 022-0613-0313-000, -0341-000, -0314-000, and -0342-000

TOWNSHIP: Oakland

INTENT OF PETITIONER: To allow for a setback less than 50 feet from a lot line for excavation near W8267 Hope Lake Rd.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.05(c)11 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:

-11.05(c)11 of Jefferson County Zoning Ordinance states no excavation shall take place within 50 ft of a lot line

-Also applied for CU2030 for mineral excavation

-P/Z Public Hearing on 4/23 and decision on 4/27

-Proposed pit for Conditional Use encompasses 4 property owners over multiple tax parcels

-Variance request will allow for utilization of access point between two properties

-Excavation within 50' of the property line would be required to create access

-All land owners have signed agreements with operator

-If Variance is denied, operator would need to install separate access road to access the Draeger property, causing more land disturbance

-Town approved on 3/17/2020

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 A USE OF LAND OR PROPERTY WHICH WOULD VIOLATE STATE LAWS OR ADMINISTRATIVE RULES.
- B. SUBJECT TO THE ABOVE LIMITATIONS, AREA VARIANCES MAY BE GRANTED WHERE STRICT COMPLIANCE WITH THE ZONING ORDINANCE RESULTS IN AN UNNECESSARY HARDSHIP WHICH WOULD UNREASONABLY PREVENT THE PETITIONER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE, OR WOULD RENDER CONFORMITY WITH THE ZONING ORDINANCE UNNECESSARILY BURDENSOME, AND WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, AND THE PUBLIC INTEREST NOT VIOLATED.
- C. SUBJECT TO THE ABOVE LIMITATIONS, USE VARIANCES MAY BE GRANTED WHERE STRICT COMPLIANCE WITH THE ZONING ORDINANCE WOULD LEAVE THE PROPERTY OWNER WITH NO REASONABLE USE OF THE PROPERTY IN THE ABSENCE OF A VARIANCE AND WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, AND 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 (AREA VARIANCE) OR STRICT COMPLIANCE WITH THE ZONING ORDINANCE WOULD LEAVE THE PROPERTY OWNER WITH NO REASONABLE USE OF THE PROPERTY (USE VARIANCE) BECAUSE _____
Hoeft – it is the simplest way to access the area; the alternative would be to install a whole new road through farmland.
Roberts – enforcement would necessitate second entrance through farmland to Hope Lake Road.
Weis – it would provide cost effective and practical access.
- 2. THE HARDSHIP OR NO REASONABLE USE **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE _____
Hoeft – the material where they need to get at is where it is. There is currently a way to the area that is utilized.
Roberts – there are three separate property owners that would necessitate the variance.
Weis – without the variance it would require use of public roads to process the material.
- 3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE _____
Hoeft – it keeps A-1 land intact. The Lake District and town approved. The area had been mined/reclaimed previously.
Roberts – sand/gravel material is in short supply in the area; therefore, it is beneficial to the public interest.
Weis – it would keep traffic on Hope Lake Road to a minimum, and the operation would supply materials to the public/contractors.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS GRANTED.

MOTION: Hoeft SECOND: Roberts VOTE: 3-0

CONDITIONS OF APPROVAL/DENIAL: N/A

SIGNED:  DATE: 04-21-2020
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.: V1662-20

HEARING DATE: 4/21/2020

APPLICANT: Robert Fritch

PROPERTY OWNER: Heather M Lang

PARCEL (PIN) #: 010-0615-3241-001

TOWNSHIP: Hebron

INTENT OF PETITIONER: To create an addition to a non-conforming structure that is in excess of 50% of the existing foundation footprint in an A-1 zone at W4193 State Road 106, PIN 010-0615-3241-001.

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:

- Property zoned A-1, Exclusive Agricultural (3.16 ac)
- Proposed 940 sq ft. addition (635.2 sq. ft. proposed on first floor; 305 sq. ft. proposed on second floor)
- Existing sq. ft. footprint = 986.38 Proposed sq. ft. footprint = 1925.38
- Existing structural members = 21 Proposed for 17 more structural members created/ altered
- Proposed to remove existing enclosed porch and add 612 sq. ft. porch around home
 - Existing porch = 64 ft to centerline of road and 22 ft to road right-of-way
 - Proposed porch would 2" back from existing porch
- Septic system replaced on 7/15/1999
- No permit on file for existing home – built prior to 1970's
- Town approved on 3/18/2020

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 A USE OF LAND OR PROPERTY WHICH WOULD VIOLATE STATE LAWS OR ADMINISTRATIVE RULES.

- B. SUBJECT TO THE ABOVE LIMITATIONS, AREA VARIANCES MAY BE GRANTED WHERE STRICT COMPLIANCE WITH THE ZONING ORDINANCE RESULTS IN AN UNNECESSARY HARDSHIP WHICH WOULD UNREASONABLY PREVENT THE PETITIONER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE, OR WOULD RENDER CONFORMITY WITH THE ZONING ORDINANCE UNNECESSARILY BURDENSOME, AND WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, AND THE PUBLIC INTEREST NOT VIOLATED.

- C. SUBJECT TO THE ABOVE LIMITATIONS, USE VARIANCES MAY BE GRANTED WHERE STRICT COMPLIANCE WITH THE ZONING ORDINANCE WOULD LEAVE THE PROPERTY OWNER WITH NO REASONABLE USE OF THE PROPERTY IN THE ABSENCE OF A VARIANCE AND WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, AND 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 (AREA VARIANCE) OR STRICT COMPLIANCE WITH THE ZONING ORDINANCE WOULD LEAVE THE PROPERTY OWNER WITH NO REASONABLE USE OF THE PROPERTY (USE VARIANCE) BECAUSE _____
Hoeft – this is not a remodel, renovation, or rebuild; they are trying to upgrade a century old house.
Weis – the distance to the highway at one time was probably legal, and with the improvements to the road, the setback has been reduced to what it is today.

- 2. THE HARDSHIP OR NO REASONABLE USE **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE _____
Hoeft – the house is too close to Highway 106 and has been for over a century.
Weis – if not for the highway, the remodel would be allowed.

- 3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE _____
Hoeft – the house will not be any closer to Highway 106.
Weis – The addition is no closer to the highway than it is now.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS GRANTED.

MOTION: Hoeft SECOND: Weis VOTE: 2-1

Roberts was not in favor of the petition due to the proximity of the porch rebuild to the road right-of-way.

CONDITIONS OF APPROVAL: complete septic evaluation prior to construction.

SIGNED: *Dale Weis* DATE: 04-21-2020
 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.: 2020 V1660

HEARING DATE: 04-21-2020

APPLICANT: Jim Work

PROPERTY OWNER: James L & Michelle L Work

PARCEL (PIN) #: 028-0513-1233-011 (W7671 Lamp Road)

TOWNSHIP: Town of Sumner

INTENT OF PETITIONER: To construct an accessory structure in the floodplain at ground level at W7671 Lamp Road, PIN 028-0513-1233-011.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 14.4.3 (2) OF THE JEFFERSON COUNTY FLOOD PLAIN ZONING ORDINANCE.

THE FEATURES OF THE PROPOSED CONSTRUCTION AND PROPERTY WHICH RELATE TO THE GRANT OR DENIAL OF THE VARIANCE APPLICATION ARE:

-0.110 acre Waterfront Zone

-Violation currently open on property – 2019 VIO026

-See attachment for additional Staff Finding of Facts

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 A USE OF LAND OR PROPERTY WHICH WOULD VIOLATE STATE LAWS OR ADMINISTRATIVE RULES.
B. SUBJECT TO THE ABOVE LIMITATIONS, AREA VARIANCES MAY BE GRANTED WHERE STRICT COMPLIANCE WITH THE ZONING ORDINANCE RESULTS IN AN UNNECESSARY HARDSHIP WHICH WOULD UNREASONABLY PREVENT THE PETITIONER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE, OR WOULD RENDER CONFORMITY WITH THE ZONING ORDINANCE UNNECESSARILY BURDENSOME, AND WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, AND THE PUBLIC INTEREST NOT VIOLATED.
C. SUBJECT TO THE ABOVE LIMITATIONS, USE VARIANCES MAY BE GRANTED WHERE STRICT COMPLIANCE WITH THE ZONING ORDINANCE WOULD LEAVE THE PROPERTY OWNER WITH NO REASONABLE USE OF THE PROPERTY IN THE ABSENCE OF A VARIANCE AND WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, AND 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 (AREA VARIANCE) OR STRICT COMPLIANCE WITH THE ZONING ORDINANCE WOULD LEAVE THE PROPERTY OWNER WITH NO REASONABLE USE OF THE PROPERTY (USE VARIANCE) BECAUSE
Hoeft - there is a need for storage that is not in the house or crawl space.
Weis - having a structure to store lawn maintenance items without storing them in or below the residential structure is necessary.
Roberts - the floodplain causes storage of the hazardous material to be above the floodplain elevation.
2. THE HARDSHIP OR NO REASONABLE USE IS DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE
Hoeft - it is in the flood fringe and storage area and cannot comply with the ideal without impacting the neighbor's well.
Weis - (repeated the same reason as provided in number one).
Roberts - the shed cannot be elevated out of the floodplain.
3. THE VARIANCE WILL NOT BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE
Hoeft - there will be provisions made for shelving and elevating the push mower out of the floodplain
Weis - the owner appears to have addressed all the concerns of safety for storing any equipment and/or fuel safely and concerns for the structure in the flood storage/fringe.
Roberts - the shed is a benefit and will remove hazardous material out of the water of the lake.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS GRANTED.

MOTION: Roberts SECOND: Hoeft VOTE: 3-0

CONDITIONS OF APPROVAL: keep hazardous chemicals and lawn mowers above the floodplain elevation (784.94') for the intent to keep them out of the floodplain. Approval applies to this structure only and does not override other floodplain ordinance requirements.

SIGNED: Dale Weis DATE: 04-21-2020
CHAIRPERSON

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

2020 V1660 Staff Finding of Facts and Comments

- Property is located in the Flood Fringe and Flood Storage Districts of the Floodplain
- Sec. 14.4.3 (2) - An accessory structure is permitted on the property, but must be constructed on fill with the lowest floor at or above the regional floodplain elevation
- Property owner is requesting to construct the accessory structure on ground level, which is below the regional floodplain elevation
- Sec. 14.2.1 – required for any development in the floodplain
- Sec. 14.4.3 (5) – Storage of flammable materials shall be stored at or above the flood protection elevation (two feet about the floodplain elevation) or floodproofed
- Sec. 14.5.2 Flood Storage – Limits the amount of fill that can be placed in the floodplain. For any amount of fill placed in the floodplain, the same amount must be removed
- Sec. 14.7.3 Board of Adjustment:
 - The BOA may grant variance to the floodplain ordinance
 - (4) Variances
 - List criteria for the BOA to grant a variance
- Town approved the petition on January 13, 2020
- DNR has been notified of the petition
- The property is 0.110 acres in size
- Data has not been submitted showing the location of the floodplain height on the structure
- Work completed in 2014 to raise the house and septic system

- If approved, the petition should be conditioned upon:
 - Structure shall be floodproofed in compliance with Sec. 14.7.5
 - Statement addressing Sec. 14.2.1 and/or Sec. 14.7.3 (4)(b) 1 – the variance and structure will not cause an increase in the regional flood elevation
 - The BOA may postpone action until this item has been addressed
 - Data identifying the floodplain height in comparison to the structure to determine where flammable materials may be stored (Sec. 14.4.3 (5))

