

**JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT**

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

THE BOARD OF ADJUSTMENT WILL MEET ON THURSDAY, FEBRUARY 11, 2021 AT 9:15 A.M. Members of the public may attend Via Zoom Videoconference or in Room 205, Jefferson County Courthouse, 311 South Center Avenue, Jefferson, WI

THE BOARD OF ADJUSTMENT WILL LEAVE FOR SITE INSPECTIONS AT 10:30 A.M. OR AS SOON AS THE BOARD CONCLUDES ITS CLOSED SESSION, AND WILL CONVENE THE PUBLIC HEARING AT 1:00 P.M.

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

**Join Zoom Meeting**

Register in advance for this meeting:

[https://zoom.us/join/register/tJEoce6sqz4oH9MhFxYB\\_TP4Sq7MFBbifXHI](https://zoom.us/join/register/tJEoce6sqz4oH9MhFxYB_TP4Sq7MFBbifXHI)

Meeting ID 955 6745 5257

Passcode Zoning

**PETITIONERS OR THEIR REPRESENTATIVES MUST PARTICIPATE IN THE PUBLIC HEARING AT 1:00 P.M. BY USING THE ZOOM MEETING OPTION DESCRIBED ABOVE OR BY ATTENDING IN PERSON.**

**1. Call to Order**

Meeting called to order @ 9:15 a.m. by Weis

**2. Roll Call (Establish a Quorum)**

Members present: Weis, Hoeft, Roberts

Members absent: -----

Staff: Matt Zangl, Brett Scherer, Laurie Miller

Also Present: Attorney Steven Zach, Assistant Attorney Julia Potter

Appearing by Zoom: Anita Martin, Michael Kennedy

**3. Certification of Compliance with Open Meetings Law**

Staff presented proof of publication.

#### **4. Approval of the Agenda**

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

#### **5. Approval of January 14, 2021 Meeting Minutes**

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

- 6. Communications** – Zangl explained the county was going with paperless per diems. Staff will complete the per diem and submit it for the Board. Lunch receipts should be given to staff, and staff will get confirmation on how they want them to be submitted.

#### **7. Public Comment - None**

- 8. Convene into closed session pursuant to Wisconsin State Statute section 19.85(1)(g), “Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved” for the purpose of discussing an appeal of a Conditional Use Permit granted to We Energies by the Planning and Zoning Committee.**

Weis made motion, seconded by Roberts, motion carried 3-0 on a roll call vote to adjourn into closed session @ 9:20 a.m.

#### **9. Reconvene into open session**

Hoeft made motion, seconded by Roberts, motion carried 3-0 to reconvene @ 10:23 a.m.

#### **10. Site Inspections –Leaving from Courthouse Room 205, Driving to the Following Sites:**

V1676-21 – Ixonia BP/Station Ixonia LLC, PIN 012-0816-2224-000, W1168 American Street, Town of Ixonia

V1677-21 – Richard & Christine Schwarze, PIN 018-0713-1034-009 on Shorewood Meadows Circle

#### **11. Public Hearing – Beginning at 1:00 p.m. in Room 205**

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

Members present: Weis, Hoeft, Roberts

Members absent: -----

## 12. 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, February 11, 2021 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. **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:

Motion made by Roberts, seconded by Hoeft to hear the following petition and make decision prior to addressing the second petition on the agenda. Motion carried 3-0 on a voice vote.

NOTE: Petitioner was not opposed to waiting for his decision.

**V1676-21 – Ixonia BP/Station Ixonia LLC:** Variance from Sec. 11.07(d)2 of the Jefferson County Zoning Ordinance to allow a filling station canopy at less than the required setbacks to American Street and US Highway 16 in the Town of Ixonia. The site is part of PIN 012-0816-2224-000 (1.037 Ac) in a Business zone.

James from Northwest Petroleum presented the petition. He stated they were looking to put a canopy over the diesel island on the west side of the building. It would be the same as what is currently over the gas island on the east side, and will not be any closer to the road. American Street was once a driveway, and now it is a street. It is their main concern to provide safety to their patrons during times of inclement weather.

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 Roberts.

Hoeft asked if there was any response from the DOT. Zangl stated nothing was received from the DOT. Zangl asked the petitioner if they needed approval from the DOT before constructing the canopy. The petitioner stated he was not sure and didn't believe so, but will he double-check if he needed to.

Staff report was given by Zangl. He referenced 11.07(d)2 and indicated that the setbacks requirements were 200' from the centerline and 100' from the ROW to STH 16. The setbacks for American Street are 85' to the centerline and 50' to the ROW. No matter what setback you go by, the proposed addition does not meet the complete setbacks so they need a variance. They are proposing 47' to the ROW and 72' to the centerline of American Street, but they meet the 200' setback to STH 16. This is a unique situation due to the location of the roads and how the road was developed. In 1995, they received a variance to construct the station. They do not qualify for a setback average due to not having enough structures in the area. There are wetlands on the property so they cannot push the structure back. The structure was there by a previous variance.

Hoeft asked if the diesel pumps were put in later than the gas pumps. The petitioner stated he wasn't sure. Roberts recollected they were there at pretty much the same time and have been there for a long time. Zangl noted they would not need a permit to put in any of the pumps.

Roberts asked how far the main building and the gas canopy was from the ROW. The petitioner stated that it is within 2'-3' from not needing a variance. This canopy would in line with the other canopy.

Weis noted that historically, this was a very dangerous intersection. Those safety concerns were addressed when the round-about was added. American Street is not much more than like a frontage road to access the businesses. Zangl stated there aren't many frontage roads in the county, so it is not in the ordinance. Weis stated one reason for the setbacks is for future expansion of the road. In this particular case, he did not feel it would be an issue. Zangl commented that moving it back could meet the town ROW setback, but it still will not meet the STH ROW setback. Roberts commented that this would address safety issues to their patrons, and asked if there were any other safety issues besides what was stated. The petitioner stated those were the three main reasons. He further explained that the columns would be in front of the pumps for extra protection. Weis noted that the canopy is elevated so there are no sight line problems.

**V1677-21 – Richard& Christine Schwarze:** Variance from Sec. 11.03(d)1 of the Jefferson County Zoning Ordinance to allow reduced frontage on and access to Shorewood Meadows Circle for a proposed R-2 zone on PIN 018-0713-1034-009 (35.485 Ac) in the Town of Lake Mills.

Rick & Christine Schwarze, 533 W Lake Park Place, were present. Mr. Schwarze made correction to the notice that they were asking for it to be rezoned to R-1 and referenced the large packet he provided.

They originally purchased the property three years ago. At that time of purchase, it was represented as having a residential use for development. This is unique property. There are 3 different areas that could potentially be residential sites – one off of Woodfield Lane; however, there is a sanitary easement with the City of Lake Mills through that lot. Having found that out, it ruled out that location. The other sites are off of Shorewood Hills Rd which was approved by the town and Shorewood Meadows Circle which is where they are asking for a variance for access. They would like to use the site off of Shorewood Meadows Circle to build their home and use the rest of the land for recreational purposes.

Most of the land is either a wooded or wetland area. The access is unique with most of the land being landlocked. He explained the land he owned, the wooded and wetland areas, and the access points on all the sites. He noted that there is also easement through the property and the topography limits the access. He met with the DNR, and they and the Army Corp of Engineers have issued their permits. They have also met with the City of Lake Mills and got approval for emergency vehicle access coming off the cul-de-sac to access the property.

The plans for the driveway include having it pitched towards the creek area. The calculations have been done to alleviate any concerns with runoff. This is all managed forest land that expires as of December 31, 2021. They would be taking this 5 acre out of managed forest land and renewing it for the rest of the land.

There were no questions or comments in favor of the petition. Opposed was Mike Kennedy, W8432 Shorewood Meadows Circle appearing by Zoom. He noted his property is directly west of this property. He was concerned with the driveway, the areas of flooding with no culverts, and the overall water issues on the property.

Scott Wells, W8421 Shorewood Meadows Circle, appearing by Zoom was also opposed. He didn't believe this area was ~~not~~ wide enough for a driveway. He had concerns with the flooding and with this, making it worse.

Hope Oostdik, Town of Lake Mills Chair, appearing by Zoom, stated they felt a 31.97' access width was too small for a driveway and utilities without disturbing the wetland and the neighbors. The width of the access directly contradicts their ordinance which requires it to be 66'. When this was originally created, she didn't believe it would be allowed to be used for residential development, and it was never added to the plat. There is no unnecessary hardship because they have a lot of acreage and another very suitable area for access to build on this parcel.

The petitioner stated the concerns that were addressed with the water issues were taken into consideration for the storm water to be built into the driveway. There is also a storm inlet between their property where there driveway is and to the north to take all the water in between the two

driveways and push that to the creek. They are handling the calculations to deal with all the impervious surfaces which show all the storm water can be handled and pushed to the appropriate area. There is access and a culvert which was intended to be used to access the location.

Hoeft asked the petitioner if they had gone to the City of Lake Mills for emergency vehicle access. The petitioner stated yes and also with the electricity.

Hope Oostdik stated this area is served with sewer, electric and emergency services by the City of Lake Mills. The topography in the area is unusual in that she was not sure all of this could be done within a 31' access. That would be her concern and would set precedence.

Hoeft asked about the contact with the Army Corp of Engineers. The petitioner explained. He further stated this is on a cul-de-sac and all the immediate neighbors have a reduced access because it's on a cul-de-sac. He wants to do the same as the neighbor with the same situation.

Roberts stated there was also a request for rezoning and further explained. Zangl explained the area and the need for a 66' frontage/access. This was platted in the early 1990's which the 66' requirement was there. He was not sure why these lots were created this way. He explained Lot 20 which is the entire lot. Roberts clarified that at one point it had a 66' access but then a portion was sold to the neighbor. Zangl stated it was platted as in the original subdivision plat. This situation was created sometime in the 2000's with deed exchanges, and the outcome is what is left now. He further explained. In essence, it created 2 substandard lots. Roberts suggested combining the 2 accesses. Zangl stated theoretically yes they could, but there are two different property owners that would have to agree to that. They cannot technically be forced to do that, but it could be an outcome to have 66' access. However, you could also create a lot without 66' access and no frontage at all. There was discussion that it could potentially be made into a public road.

Zangl explained the rezoning request from A-T to R-1 Residential, and noted this is a heavily residential area. It's also in the 15-year growth area, so it's an area that the county would like to see developed. The access is currently zoned R-1 so the petitioner could put in a driveway to access the back the property and put an agricultural shed there. There is nothing currently stopping him from doing that. They could put a driveway in just to put in a driveway. They could potentially put a small shed on the property. The property could be developed as it is zoned residential. The reason for the variance today and the overall picture is to create a new lot which needs to have 66' frontage and access to a public road.

The lot off of Shorewood Hills Rd has town approval and 66' access. Zangl read additional findings-of fact. There was a wetland delineation done to show exactly where the wetland line is. Wetland disturbance is regulated through the DNR and the Army Corp of Engineers in which the permits have been obtained. There was an approval from the city for the driveway design. The motion failed to be approved at the town. There was discussion on the access, wetlands and slope on the lot off of Shorewood Hills Road. Roberts asked the petitioner why he could not put his house on the lot off of Shorewood Hills Road. The petitioner stated he wants to build on this lot which is extremely private and possibly sell off the other lot on Shorewood Hills Road. Roberts

noted that a variance is the last resort, and it seems that they have another option in that they could put their house on the other lot. Although it may not be ideal, there is another option out there. In his opinion, this is homeowner-induced variance for the simple fact that they have another option.

Zangl stated this still needed to go to the Planning & Zoning Committee for the rezoning. There was further discussion and the lot off of Shorewood Hills Road. Hoeft noted it was not the petitioner who created something less than a 66' access. There was further discussion on the reduced accesses on neighboring properties.

There was a town decision in the file denying the petition which was read into the record by Roberts. Zangl noted the town minutes were attached to the decision. The petitioner noted the town Plan Commission approved his rezone and variance petitions. Mike Kennedy made comment about the Town Plan Commission decision. Weis noted that the Town Board and Plan Commission decisions are advisory to the county not mandatory. Roberts said the town's reasons were important and further explained.

Hoeft asked if the DNR approved his request. The petitioner stated he had permits from both the DNR and Army Corp of Engineers. Scott Wells stated that Dave Schroeder from the Town Board meeting had voted against the petition with concerns that the soft soil would even support their project. Weis noted that his driveway parallels this project, and asked Mr. Wells if he had any issues with his driveway. Roberts asked if his driveway was asphalt. Mr. Wells stated it was. Roberts asked Mr. Wells if he has any problems with it or has to do any fixing. Mr. Wells stated that he has, but didn't know what would be above and beyond the normal amount of repairs. He further explained. Weis asked him if his sewer connection was along his driveway. Mr. Wells stated it was.

Zangl commented on the DNR & Army Corp of Engineers permits and noted it's easier to get the permits rather than ask if they would approve it after they get county approval. Roberts asked how much they were filling in. The petitioner stated it would be around 2,500 square feet and to bring it up to grade, it would be about 5' of infill and in some spots 2'. He further explained and there was further discussion.

Roberts asked where he was placing his house. The petitioner explained it would be off of where there is a turn-around for emergency access. He also stated he was asking for the 5 acres to be able to put some accessory buildings up and wanted to have enough space to do that. He is allowed to take up to 5 acres out of the managed forest land before he put it the land back into the program.

Roberts asked staff about the size restrictions of accessory buildings of up to 1,000 square feet. Zangl stated if they wanted to exceed the square footage, they can petition for a conditional use review and approval.

## **10. Discussion and Possible Action on Above Petitions (See following pages and files)**

## 11. Adjourn

Weis made motion, seconded by Hoeft, motion carried 3-0 on a voice vote to adjourn @ 2:52 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 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](http://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](http://www.jeffersoncountywi.gov)



Secretary



Date



DECISION OF THE ZONING BOARD OF ADJUSTMENT  
JEFFERSON COUNTY, WISCONSIN

**COPY**

**FINDINGS OF FACT**

PETITION NO.: 2021 V1677  
HEARING DATE: 02-11-2021

APPLICANT: Richard & Christine Schwarze

PROPERTY OWNER: SAME

PARCEL (PIN) #: 018-0713-1034-009 & 018-0713-1522-040

TOWNSHIP: Lake Mills (Shorewood Meadows)

INTENT OF PETITIONER: Create a R-1 zoned lot for new residential development with approximately 33' of frontage 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:

-11.039(d)1 – each lot requires 66' of frontage and access along a public road – language is also included within Subdivision Ordinance

- petition to create an R-1 zoned lot with less than 66' of frontage (appx. 33')

- See attached Finding of Fact

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

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

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DECISION STANDARDS

- A. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING 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 Hoelt: The only alternative to the site chosen would mean an extensive wetland remediation which is unlikely to be permitted. Roberts: There is another building site, but the building footprint is substandard therefore justifying the larger building site location. Weis: Literal enforcement would prevent the owner from building a home on a R-1 zoned property.
2. THE HARDSHIP OR NO REASONABLE USE **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE Hoelt: The parcel was somehow created without 66' frontage and the neighbors also lack the required frontage. Roberts: The driveway is 33' wide instead of 66'. Weis: The hardship is due to a land division that occurred earlier and apparently approved by the county.
3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE Hoelt: The petitioner has received permits to fill in enough wetland to construct a driveway. They have anticipated problems & are working with all units of government to situate a driveway & home on the property. Roberts: There are 3 other driveways at < 66' located off the cul-de-sac. The owner has wetland permits to construct a driveway. Weis: The homeowner has professional advice on how to build a driveway & construct the house with minimal effect to the wetland and woodland. These professionals should be consulted during construction

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

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

Motion made by Hoelt, seconded by Weis to approved the petition. Motion amended on a motion by Roberts, seconded by Weis to include the following condition: **The driveway limited to 1 residence only.** Motion carried 3-0 on a voice vote.

SIGNED: Dale Hoelt (lm) DATE: 02-11-2021  
CHAIRPERSON

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

V1677 – 2020

Rick and Christine Schwarze variance request

Allow lot creation at less than 66' of frontage

Brief history of parcel:

- Originally part of Lot 20 of Shorewood Meadows, plated and recorded in 1993
- In 2001, land was exchanged between Lot 20 and the land directly north of the Lot 20. The result was a portion of Lot 20 was transferred to the owner of the adjoining land to the north and the remainder of Lot 20 was sold to a new owner. The owner of the "new" lot 20 built a single-family home in 2001/2002.
- The portion of lot 20 was transferred to the owner of the property to the north. The new owner of the property (Schwarze) would like to utilize this strip and create a new R-1 zoned lot to construct a single-family home.
- It is unknown as to how or why the portion was transferred. The transfer resulted in an illegal land division of Lot 20. It is unclear as to if the Zoning Department approved of the transfer or were aware of the transfer. A Plat of Survey from 2001 indicates that the transfer was to an adjoining landowner, but no other information can be found.
- This "strip" of land is already zoned R-1, but the remainder of the proposed lot is currently zoned A-T and does not allow for a new single family home, without being rezoned. If the land was zoned R-1, the property owner could utilize the 33' of access to construct a new home. Since we are creating a new lot through the rezone process, a variance is required to sanction the 33' strip to be used for the access.
- Wetland delineation has been completed
- DNR indicates approval for the necessary (300 sq. ft.?) of wetland fill to construct a driveway
- Owner is in contact with USCOE for any required permits
- City of Lake Mills has approved the driveway design (overall design and access for emergency vehicles). City engineer also reviewed the driveway plans
- Town Response: Motion was made to approve the petition – Roll Call vote resulted in 1 for and 2 against. Motion failed
- If the variance is approved, the Town and Planning and Zoning Committee/County Board will hear the petition to rezone to R-1
- Property is located in a 15 year growth area and in a developed area of the Town of Lake Mills

COPY



DECISION OF THE ZONING BOARD OF ADJUSTMENT  
JEFFERSON COUNTY, WISCONSIN

COPY

FINDINGS OF FACT

PETITION NO.: 2021 V1676  
HEARING DATE: 02-11-2021

APPLICANT: Ixonia BP

PROPERTY OWNER: Station Ixonia LLC

PARCEL (PIN) #: 012-0816-2224-000 (W1168 American Street)

TOWNSHIP: Ixonia

INTENT OF PETITIONER: Construct a structure (open sided canopy) over the existing diesel pump area

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.07(d)2 OF THE  
JEFFERSON COUNTY ZONING ORDINANCE.

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

-11.07(d)2 – required setbacks of 200' from Centerline of State Road 16, 100' from ROW and  
85' from centerline of American Street and 50' from ROW of American Street

-propose: 47' from ROW of American and State Road 16

72' from Centerline of American Street

300' from Centerline of State Road 16

-Unique property because American Street and State Road 16 share the Right of Way. American Street is located in the ROW of State Road 16. Neither road setback is being met, so a variance is required.

-V797-1995 granted for a reduced setback for the building

-variance is required to build a canopy over the existing diesel pumps

-does not qualify for a reduced setback because of the lack of development around the property.

The property is surrounded by wetlands to the north and east.

-Property is zoned business

-Town approved variance request on November 18

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

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

COPY

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: The pumps are already in and this is the only place for them to be. Roberts: The existing building is already non-conforming & the location of the pumps justify putting the canopy in this location. Weis: Not permitting the location of canopy as presented would make it non-functional.
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 strangely situated between a state highway and town road. Roberts: The existing pumps are in this location. Weis: Road modifications to STH 16 and the frontage road caused the setback problem.
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's no closer to the town road or highway. The canopy will be protective of customers. Roberts: A canopy is necessary to keep the snow, ice and rain off of vehicles and customers. Weis: It provides protection to the customers from the elements.

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

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

MOTION: Hoeft SECOND: Weis VOTE: 3-0 (voice vote)

CONDITIONS OF APPROVAL: **The canopy is to be no closer to the road than the existing building.**

SIGNED: \_\_\_\_\_

*Dale Hovio (Sm)*  
CHAIRPERSON

DATE: 02-11-2021

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