

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

Dale Weis, Chair; Janet Sayre Hoeft, Joann Larson

The Board of Adjustment will meet on **Thursday, October 12, 2023 at 10:00 a.m.** Members of the public may attend at the Jefferson County Highway Department Committee Rm, 1425 Wisconsin Dr, Jefferson, WI.

The Board of Adjustment will leave for site inspections from the Highway Dept at 10:15 a.m.

Petitioners or their representatives must be in attendance for the public hearing at 1:00 p.m. in the Highway Department Committee Rm, 1425 Wisconsin Dr, Jefferson, WI.

Petitioners and other members of the public may attend the meeting virtually by following these instructions if they choose not to attend in person:

Register in advance for this meeting:

<https://us06web.zoom.us/j/88432018141?pwd=RjNkakh5YnROYzd5UDBOMXNEY05HUT09>

Meeting ID 884 3201 8141

Passcode Zoning

After registering, you will receive a confirmation email containing information about joining the meeting

1. Call to Order-10:00 a.m. at the Jefferson County Highway Dept Committee Rm, 1425 Wisconsin Dr, Jefferson, WI

Meeting called to order @ 10:03 a.m. by Weis

2. Roll Call (Establish a Quorum)

Members present: Weis, Larson, Hoeft

Members absent: -----

Staff: Laurie Miller, Caleb Damon

3. Certification of Compliance with Open Meetings Law

Miller acknowledged publication

4. Approval of the Agenda

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

5. Approval of September 14, 2023 Meeting Minutes

Hoelt made motion, seconded by Weis to defer approval of the minutes until the afternoon session for staff to address some questions the Board had. Motion carried 3-0 on a voice vote to approve.

6. Communications

Miller noted the office was moved back into the courthouse.

7. Public Comment - None

8. Site Inspection – Beginning at 10:15 a.m. and Leaving from the Highway Dept Committee Rm, 1425 Wisconsin Drive, Jefferson, WI
V1732-23 – Dennis Kutz Trust, N2792 Curtis Mill Rd, Town of Koshkonong, PIN 016 0614 3524-000
V1730-23 – Jon Boettcher, N3573 Haas Rd, Town of Hebron, PIN 010-0615-2213-000
V1731-23 – Thomas Griswold, N8934 River Valley Rd, Town of Ixonia, PIN 012-0816-1133-000

9. Public Hearing Beginning at 1:00 p.m. in Hwy Dept Committee Room

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

Members present: Weis, Larson, Hoelt

Members absent: -----

Staff: Sarah Elsner, Laurie Miller

10. Explanation of Process by Committee 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, October 12, 2023 in the Jefferson County Highway Department Committee Room, 1425 Wisconsin Drive, 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:

V1730-23 – Jon Boettcher, Petitioner/Gerald & Pamela Drewek, Property Owners:

Variance from Sec. 11.07(d) of the Jefferson County Zoning Ordinance to allow an addition to a non-conforming home at less than the required road right-of-way and road centerline setbacks. The site is at **N3573 Haas Rd**, Town of Hebron, on PIN 010-0615-2213-000 (3 ac) in an A-3, Agricultural/Rural Residential zone.

Jon Boettcher (2605 Koch Road, Fort Atkinson), contractor for the owner, presented the petition. He stated they wanted to demolish the existing porch and add onto the home. They joined some lots and there is a new septic on the west side of the property. The remodel on the east side of the house will encroach on the road setback by 35' to the ROW and 68' to the centerline of the road. Those measurements are from the dripline. The project will be a little bit bigger, but an improvement for the family. The well and deck are on the south side, and to the north, there is a driveway and another deck area. The existing porch is where it is at, and they are only asking for an additional 5'.

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 Elsner. The request is to allow a home addition at a reduced setback from the road centerline and ROW. The property is zoned A-3 and is a 3-acre lot. Section 11.07(d) requires a 50' setback to the ROW and the existing home is at 47' so it is already not meeting the setback making it a non-conforming structure. They are proposing a 35' setback to the ROW. There is a required setback of 85' to the centerline of the road. The existing home is currently at 80' to the centerline and they are proposing 68'. In 1981, there was a permit on file to relocate a mobile home on the property. In 1982, there was a permit issued for a family room addition. There was no sanitary permit on file for the existing septic system; however, a permit for a replacement septic was issued on July 24, 2023, which has not been installed yet. The town approved the petition without conditions.

Hoeft asked what the oozing was coming out of the pipe. Elsnor stated she assumed the septic was a failing system. The sanitary permit is good for 2 years, but if it is failing, she stated she could call the installer and make it a priority to be replaced right away. Hoeft made comment about the decks and asked if there was an adequate way to get into the house for emergency services. The petitioner stated that this addition does not include an entryway or exits. Hoeft asked if the house was accessible as it was now. The petitioner stated yes, there just was not any added with this project.

Larson noted she looked at the aerial photos from 2018 and 2020, and there appears to be a new shed constructed sometime after 2018 with no permit. Elsnor stated there was no permit on file, and before a permit was issued for this project if it is approved, the violation would need to be taken care of and cleared up. Larson asked if he met the setbacks for this building. Elsnor stated it appeared to be 75' from the ROW and 100+ from the centerline. Weis noted that a permit for this building would be part of housekeeping for Zoning. Elsnor noted it is a violation that needed to be remedied. Weis reiterated the intent of the petitioner's request and confirmed that he would encroaching only another 5'. The petitioner confirmed they were asking for an additional 5' towards the road than what is currently there. Elsnor explained they would need to come to the office to fill out permit applications, provide a site plan and pay the fees.

V1731-23 – Thomas Griswold: Variance from Sec. 11.04(f)5 of the Jefferson County Zoning Ordinance to allow a new shed at less than the required setback from a side lot line. The site is at **N8934 River Valley Rd**, Town of Ixonia on PIN 012-0816-1133-000 (1.55 ac) in an A-1 Agricultural zone.

Kevin Griswold (N8812 River Valley Road) presented the petition. When they expanded the dairy about 15 years ago, the house was split off from the farm. The lot line is 1' north of the existing shed because the existing silos are just north of the lot line. They would like to add onto the shed and would continue east with the setback of 1' from the lot line. Hoeft asked if the placement of the shed was where the cement slab was. The petitioner stated yes.

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

Staff report was given by Elsnor. The request is to allow for a reduced lot line setback for a proposed shed. The property is zoned A-1 and is a 1.55-acre lot. Section 11.04(f)6 requires a side lot line setback to be at 20'. They are asking for a 1' setback to be in line with the existing shed. In 2010, a variance was approved for the reduced lot line setback of 1' and for a reduced setback for the silos to that same property line. There was a sanitary permit approved for a mound system in 2008. The town board approved the petition with no conditions. The setback to the east would be 47' to the lot line which meets the setback.

Hoeft asked for clarification of the ordinance section number. Elsner stated it should be 11.04(f)6. Weis asked if the home lot was zoned A-3. Elsner stated it was zoned A-1 and further explained farm consolidation. Weis asked if the 1' setback was measured from the foundation of the building or the dripline. The petitioner stated he believed it was from the dripline, but he would have to measure to be sure.

V1732-23 – Dennis R Kutz Trust: Variance from Sec. 11.07(d)5 of the Jefferson County Zoning Ordinance to allow a new shed at reduced road right-of-way and road centerline setbacks. The site is at **N2792 Curtis Mill Rd** on PIN 016-0614-3524-000 (1.331 ac), Town of Koshkonong in an A-3, Agricultural/Rural Residential zone.

Dennis Kutz (N2792 Curtis Mill Rd) stated he wanted a pole shed with a sawmill to put under cover. He explained where they unload corn and noted a semi-truck and trailer could not make the corner. He referenced the map and stated where the truck was located was where the building would be at the required setback. The proposed placement of the shed would give room for the trucks and would not affect the site line for traffic. Weis commented that it is an existing farm, and he has what he has to work with. Kutz noted that it would be on his lot and would be separate from the farm.

Larson asked the petitioner if the sawmill building was an active business. The petitioner stated that he was just doing it for himself as a hobby.

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 Elsner. She stated the property was zoned A-3 and was a 1.331-acre parcel. They are asking for a reduced road setback to a proposed accessory structure. Section 11.07(d) requires a 50' ROW setback and they are asking for 31'. There is a required 85' centerline setback and they are asking for a 64' setback. The rezoning occurred in 2013, there is a sanitary permit on file, and the town board approved the petition with no conditions.

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

Discussion was opened to review last month's meeting minutes. Hoeft had a question regarding the Dietmeyer petition and there was discussion and explanation by Elsner. Hoeft made motion, seconded by Weis, motion carried 3-0 on a roll call vote to approve.

12. Adjourn

Weis made motion made by, seconded by Hoeft, motion carried 3-0 on a voice vote to adjourn @ 2:02 p.m.

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

DECISION OF THE ZONING BOARD OF ADJUSTMENT
JEFFERSON COUNTY, WISCONSIN

COPY

FINDINGS OF FACT

PETITION NO.: 2023 V1730
HEARING DATE: 10-13-2023

APPLICANT: Jon Boettcher

PROPERTY OWNER: Gerald & Pamela Drewek

PARCEL (PIN) #: 010-0615-2213-000 (N3573 Haas Rd)

TOWNSHIP: Town of Hebron

INTENT OF PETITIONER: Allow a home addition at a reduced road setback

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.07(d) 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-3, Agricultural/Rural Residential (3.00-Ac)
- Request is to allow for a reduced setback from road centerline and right-of-way to proposed home addition
- Sec. 11.07(d) requires 50' setback from road right-of-way
 - Existing home is 47' from right-of-way, making it a non-conforming structure
 - Proposed setback from addition to right-of-way = 35'
- Sec. 11.07(d) requires 85' setback from centerline of road
 - Existing home is 80' from road centerline, making a non-conforming structure
 - Proposed setback from addition to right-of-way = 68'
- LU permit #12441 – 1981 for relocation of existing mobile home on property
- LU permit #13923 – 1982 for family room addition to mobile home
- No sanitary permit on file for existing system, but permit #14359 for a replacement septic was issued 7/24/23 – system has not yet been installed
- Town approved with no conditions on 9/11/2023

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 Larson: The additional living space is common to today's households. The road setbacks were there after the house was built. Hoeft: There is no reason to prevent this expansion which is well thought out as presented by the contractor. Weis: Not allowing the proposed addition would be a hardship.
2. **THE HARDSHIP OR NO REASONABLE USE IS DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE** Larson: The only logical place for the addition is the roadside of the house. Hoeft: The road is where it is. The rest of the 3 acres is septic, buildings or shelter for horses. Weis: The house existed before the current zoning setbacks.
3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE Larson: It does not cause any site or safety issues to the road. Hoeft: Nothing is across or next to it. There is no effect on site lines. Weis: There is no conflict with public safety.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Hoeft

SECOND: Larson

VOTE: 3-0 (roll call vote)

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: Dale Weis (Sm) DATE: 10-13-2023
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

COPY

FINDINGS OF FACT

PETITION NO.: 2023 V1731
HEARING DATE: 10-13-2023

APPLICANT: Thomas Griswold

PROPERTY OWNER: Griswold Trust

PARCEL (PIN) #: 012-0816-1133-000 (N8934 River Valley Road)

TOWNSHIP: Town of Ixonia

INTENT OF PETITIONER: Allow a reduced lot line setback for a proposed shed

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f)6 OF THE
JEFFERSON COUNTY ZONING ORDINANCE.

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

-Property zoned A-1, Exclusive Agricultural (1.550-Ac)

-Request is to allow for a reduced lot line setback to a proposed shed

-Sec. 11.04(f)6 requires 20' setback from side lot line to structures

-Proposed setback from shed to side lot line = 1'

-V1324 - 2010 to allow for reduced setback of 1' to side lot line for existing garage and for reduced
setback from silos to side lot line

-Sanitary permit #12146 - 2008 for mound

-Town approved with no conditions on 9/11/2023

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:

4. UNNECESSARY HARDSHIP **IS** PRESENT IN THAT A LITERAL ENFORCEMENT OF THE TERMS OF THE ZONING ORDINANCE **WOULD** UNREASONABLY PREVENT THE OWNER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE OR WOULD RENDER CONFORMITY WITH SUCH RESTRICTIONS UNNECESSARILY BURDENSOME (AREA VARIANCE) OR STRICT COMPLIANCE WITH THE ZONING ORDINANCE WOULD LEAVE THE PROPERTY OWNER WITH NO REASONABLE USE OF THE PROPERTY (USE VARIANCE) BECAUSE Weis: It would be a hardship not to allow an addition to a shed which is consistent with a previous variance. Larson: This is an addition to an already existing shed with a previously approved variance. Hoeft: This is in line with the previously approved permitted building and an expansion of that building.
5. THE HARDSHIP OR NO REASONABLE USE **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE Weis: This is an existing farm setting with structures that cause the setback issues. Larson: The lot line variance was already granted a variance. The new shed addition will run along the side. Hoeft: This is to add to a shed already too close to the lot line.
6. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE Weis: The variance will not affect the public. Larson: There is no traffic safety issue. Hoeft: There is no effect on the town road traffic or the site line. It is tucked away from the town road.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Larson

SECOND: Hoeft

VOTE: 3-0 (roll call vote)

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____

 (Dm)
CHAIRPERSON

DATE: 10-13-2013

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

COPY

FINDINGS OF FACT

PETITION NO.: 2023 V1732

HEARING DATE: 10-13-2023

APPLICANT: Dennis R Kutz

PROPERTY OWNER: Dennis R Kutz Trust

PARCEL (PIN) #: 016-0614-3524-000 (N2792 Curtis Mill Rd)

TOWNSHIP: Town of Koshkonong

INTENT OF PETITIONER: Allow for a reduced road setback for a proposed accessory structure

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.07(d) 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-3, Agricultural/Rural Residential (1.331-Ac)

-Request is to allow for a reduced road setback to a proposed accessory structure

-Sec. 11.07(d) requires 50' setback from road right-of-way

-Proposed setback from structure to right-of-way = 31'

-Sec. 11.07(d) requires 85' setback from centerline of road

-Proposed setback from structure to road centerline = 64'

-R3679A-2013 to rezone from A-1 to A-3 to separate home from rest of farmstead

-Sanitary permit #2712 - 1974 for in-ground system that services home

-Town approved with no conditions on 9/13/2023

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:

7. 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 Weis: The owner has demonstrated the need for the proposed building and it would be a hardship not to allow it. Larson: With the existing improvements on the adjacent parcels and driveway traffic, there is no other realistic place for the shed. Hoeft: A permitted business would be the result of this.
8. THE HARDSHIP OR NO REASONABLE USE **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE Weis: This is an established working farm, and this creates the restraints on the setbacks. Larson: There is no other place on the parcel due to the lot depth – it is very narrow. Hoeft: This is the only place available to place the shed.
9. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE Weis: It does not affect public safety. Larson: It will not cause any issues with traffic views on Curtis Mill Road. Hoeft: There is no effect on the traffic – an additional business is to be created.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Larson

SECOND: Hoeft

VOTE: 3-0 (roll call vote)

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____

Dale Weis (Lm)
CHAIRPERSON

DATE: 10-13-2023

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