

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

Don Carroll, Chair; Dale Weis, Vice-Chair; Janet Sayre Hoeft, Secretary; Randy Mitchell, First Alternate; Paul Hynek, Second Alternate

PUBLIC HEARING BEGINS AT **1:00 P.M.** ON THURSDAY, NOVEMBER 13, 2008
ROOM 205, JEFFERSON COUNTY COURTHOUSE

CALL TO ORDER FOR BOARD MEMBERS IS AT 9:45 A.M. IN COURTHOUSE ROOM
203, PRIOR TO THE HEARING

SITE INSPECTION FOR BOARD MEMBERS LEAVES AT 10:00 A.M. FROM
COURTHOUSE ROOM 203, PRIOR TO THE HEARING

1. Call to Order-Room 203

Meeting called to order @ 9:55 a.m. by Donald Carroll, Chair

2. Roll Call

Members present: Donald Carroll, Janet Sayre Hoeft, Dale Weis

Members absent: --

Staff: Rob Klotz, Laurie Miller

3. Certification of Compliance With Open Meetings Law Requirements

Janet Sayre Hoeft & Rob Klotz acknowledged publication.

4. Review of Agenda

Janet Sayre Hoeft made motion, seconded by Dale Weis, motion carried 3-0 to approve the review of the agenda as presented. (Rob Klotz made note that petition V1285-08 – Paula Reuter has been withdrawn)

5. Approval of October 9, 2008 Meeting Minutes

Janet Sayre Hoeft made motion, seconded by Dale Weis, motion carried 3-0 to approve the minutes.

6. Site Inspections – Beginning at 10 a.m. and Leaving from Room 203

V1288-08 – Richard & Vicky Ghislain, N1693 S. Main Rd., Town of Koshkonong

V1286-08 – Dwaine Alexander, N610 McIntyre Rd., Town of Koshkonong

V1287-08 – Clifton Fuller, Piper Road, Town of Cold Spring

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

Meeting called to order @ 1:00 p.m. by Donald Carroll, Chair

Members present: Donald Carroll, Janet Sayre Hoeft, Dale Weis

Members absent: --

Staff: Rob Klotz, Laurie Miller

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, November 13, 2008 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; decisions shall be rendered after public hearing on the following:

V1285-08 – Paul Reuter: Petition was withdrawn by petitioner and was not published.

V1286-08 – Dwaine Alexander: Variance to allow a home addition at less than the required rear yard setback in an A-1 Agricultural zone in accordance with Sec. 11.04(f)5 of the Jefferson County Zoning Ordinance. The site is at **N610 McIntyre Rd.** in the Town of Koshkonong, on PIN 016-0514-2841-002 (0.656 Acre).

Dwaine Alexander presented a letter from a neighbor to the committee and explained his petition. In favor was John Debreiner, Town Supervisor. There were no questions or comments in opposition of this petition.

Dale Weis questioned the size of the addition and the setback to the north lot line as well as the neighbor's opposition. Donald Carroll questioned the fencing and lot line.

Rob Klotz gave staff report. John Debreiner, Town Supervisor, stated the town had no objection.

V1287-08 – Clifton T. Fuller/Thomas & Rhonda Fuller Property: Allow possible division of a lot created by variance in 1976 in accordance with Section 11.02 of the Jefferson County Zoning Ordinance. The site is on **Piper Road** in the Town of Cold Spring, on PIN 004-0515-2333-002 (11.888 Acres), currently zoned A-1, Agricultural.

Gene Kovacs from RSV Engineering presented this petition. Also explaining this petition was Tom Fuller and Cliff Fuller. There were no questions or comments in favor or opposition of this petition.

Donald Carroll questioned the City of Whitewater approval in writing. Don also questioned the driveway. Janet Sayre Hoeft questioned the lot and driveway, and the location of the drop-off. Janet also questioned the City of Whitewater requirements. Dale Weis questioned the approval of the lot and the remnant parcel. Donald Carroll questioned the “land to be attached to existing lot” notation on the presenting sketch.

Rob Klotz gave staff report. Lyle Pester from the Town of Cold Spring stated the town has not made a decision, and will mail their decision to the office.

V1288-08 – Richard & Vicky Ghislain: Variance in accordance with Sec. 11.07(d)2 to construct an addition to an attached garage closer than the required setbacks to **Hackbarth Road** right-of-way and centerline. The site is in the Town of Koshkonong at **N1693 South Main Rd.**, on PIN 016-0514-1611-011 (0.621 Acres) in a Residential R-2 zone.

Vicky Ghislain presented the petition. There were no questions or comments in favor or opposition of this petition.

Dale Weis questioned the frontage road setbacks and width of the right-of-way.

Staff report was given by Rob Klotz. Per petitioner, they have not been to the town yet.

8. Decisions on Above Petitions (See Files)

9. Items for Discussion and Possible Action

a. Notice to be Added to Variance Application Regarding Who May Attend Site Inspections

which any interested parties may attend was recommended to be added to the hearing notice and shall be inserted into the notice as follows:

There may be site inspections prior to public hearing *which any interested parties may attend*; decisions shall be rendered after public hearing on the following:

b. Decision Process

The committee discussed the decision process and determined the following:

The BOA members shall address each petition in a discussion format prior to completing individual decision forms. Each member of the board shall verbalize their decisions. A motion to grant or deny said petitions shall be made, seconded and voted on.

c. Statement to be Added to Decision Form Regarding Completeness of Taped Decision vs. Written Decision

The following shall be added to the decision form:

Audio record of these proceedings is available upon request.

10. Adjourn

Motion made by Dale Weis, seconded by Donald Carroll, motion carried 3-0 to adjourn at 2:56 p.m.

The Board may discuss and/or take action on any item specifically listed on the agenda.

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

Individuals requiring special accommodations for attendance at the meeting should contact the County Administrator at 920-674-7101 24 hours prior to the meeting so appropriate arrangements can be made.

DECISION OF THE ZONING BOARD OF ADJUSTMENT
JEFFERSON COUNTY, WISCONSIN

FINDINGS OF FACT

PETITION NO.: V1286-08
HEARING DATE: 11-13-2008

APPLICANT: Dwaine Alexander

PROPERTY OWNER: Dwaine & Barbara Alexander

PARCEL (PIN #): 016-0514-2841-002 (.6356A)

TOWNSHIP: Koshkonong

INTENT OF PETITIONER: Variance to construct a home addition to the rear lot line in an A-1 zone

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f)5 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:

A-1 minimum rear lot line = 20'

Residence & lot line angled

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Property layout & location

FACTS PRESENTED AT PUBLIC HEARING: Bath add.

DECISION STANDARDS

- A. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING IN ANY DISTRICT A USE NOT PERMITTED IN THAT DISTRICT _____

- B. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING A USE OF LAND OR PROPERTY WHICH WOULD VIOLATE STATE LAWS OR ADMINISTRATIVE RULES: _____

- C. SUBJECT TO THE ABOVE LIMITATIONS, VARIANCES MAY BE GRANTED WHERE STRICT ENFORCEMENT OF THE TERMS OF THE ORDINANCE RESULTS IN AN UNNECESSARY HARDSHIP & WHERE A VARIANCE IN THE STANDARDS WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, & THE PUBLIC INTEREST VIOLATED.

BASED ON THE FINDINGS OF FACT, THE BOARD CONCLUDES THAT:

- 1. UNNECESSARY HARDSHIP **IS** PRESENT IN THAT A LITERAL ENFORCEMENT OF THE TERMS OF THE ZONING ORDINANCE **WOULD** UNREASONABLY PREVENT THE OWNER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE OR WOULD RENDER CONFORMITY WITH SUCH RESTRICTIONS UNNECESSARILY BURDENSOME BECAUSE this property existed 50 years ago. The lot line is not straight and appears to have changed over the years. It's a hardship not to have a modern sized bathroom. There exists an addition & if the lot line were parallel to the existing structure, there would be no need for variation to this structure.

- 2. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE this is an old home; the lot line is on an angle; shape of the lot; not created by the petitioner.

- 3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE they have town approval and there was no objection from the neighbors. It will not affect public safety and will have a positive effect by enhancing the neighborhood. There's a farm field in the back, and it's not closer to the road.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Dale Weis **SECOND:** Janet Sayre Hoeft **VOTE:** 3-0

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ DATE: 11-13-2008
CHAIRPERSON

BOARD DECISIONS MAY BE APPEALED TO CIRCUIT COURT.

DECISION OF THE ZONING BOARD OF ADJUSTMENT
JEFFERSON COUNTY, WISCONSIN

FINDINGS OF FACT

PETITION NO.: V1287-08

HEARING DATE: 11-13-2008

APPLICANT: Clifton Fuller

PROPERTY OWNER: Thomas & Ronda Fuller

PARCEL (PIN #): 004-0515-2333-001, -002

TOWNSHIP: Cold Spring

INTENT OF PETITIONER: Modify original variance to permit another lot for consideration

THE APPLICANT REQUESTS A VARIANCE FROM SECTION Definitions, parent parcel & parcel of record 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:

V5 1976 – see file (1 lot of 20A approved)

New lot – if variance approves, still requires A-3 zone change.

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: _____

Property layout & location

FACTS PRESENTED AT PUBLIC HEARING: See tape & minutes

DECISION STANDARDS

- A. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING IN ANY DISTRICT A USE NOT PERMITTED IN THAT DISTRICT _____

- B. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING A USE OF LAND OR PROPERTY WHICH WOULD VIOLATE STATE LAWS OR ADMINISTRATIVE RULES: _____

- C. SUBJECT TO THE ABOVE LIMITATIONS, VARIANCES MAY BE GRANTED WHERE STRICT ENFORCEMENT OF THE TERMS OF THE ORDINANCE RESULTS IN AN UNNECESSARY HARDSHIP & WHERE A VARIANCE IN THE STANDARDS WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, & THE PUBLIC INTEREST VIOLATED.

BASED ON THE FINDINGS OF FACT, THE BOARD CONCLUDES THAT:

- 4. UNNECESSARY HARDSHIP **IS/IS NOT** PRESENT IN THAT A LITERAL ENFORCEMENT OF THE TERMS OF THE ZONING ORDINANCE **WOULD/WOULD NOT** UNREASONABLY PREVENT THE OWNER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE OR WOULD RENDER CONFORMITY WITH SUCH RESTRICTIONS UNNECESSARILY BURDENSOME BECAUSE _____

- 5. THE HARDSHIP **IS/IS NOT** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE _____

- 6. THE VARIANCE **WILL/WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE _____

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Dale Weis **SECOND:** Janet Sayre Hoeft **VOTE:** 3-0

Tabled for the following: 1) Town Response 2) City of Whitewater extra-territorial response in writing 3) clarification of access to both lot & remnant – cannot be landlocked 4) accurate slope information.

SIGNED: _____ DATE: 11-13-2008
CHAIRPERSON

BOARD DECISIONS MAY BE APPEALED TO CIRCUIT COURT.

DECISION OF THE ZONING BOARD OF ADJUSTMENT
JEFFERSON COUNTY, WISCONSIN

FINDINGS OF FACT

PETITION NO.: V1288-08
HEARING DATE: 11-13-2008

APPLICANT: Richard & Vicky Ghislain

PROPERTY OWNER: SAME

PARCEL (PIN #): 016-0514-1611-011

TOWNSHIP: Koshkonong

INTENT OF PETITIONER: Variance to construct an attached garage addition @ 75'
to centerline & 27' to R.O.W. setback from Hackbarth Rd.

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:
Hackbarth Rd. – Town Rd. (85' to centerline, 50' to ROW required)

Expanded ROW in this location (120')

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Property layout & location

FACTS PRESENTED AT PUBLIC HEARING: Adding a 3rd stall to the garage.
Property is near a 4-way intersection. The area is smaller than the fenced area that
was there.

DECISION STANDARDS

- A. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING IN ANY DISTRICT A USE NOT PERMITTED IN THAT DISTRICT _____

- B. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING A USE OF LAND OR PROPERTY WHICH WOULD VIOLATE STATE LAWS OR ADMINSTRATIVE RULES: _____

- C. SUBJECT TO THE ABOVE LIMITATIONS, VARIANCES MAY BE GRANTED WHERE STRICT ENFORCEMENT OF THE TERMS OF THE ORDINANCE RESULTS IN AN UNNECESSARY HARDSHIP & WHERE A VARIANCE IN THE STANDARDS WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, & THE PUBLIC INTEREST 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 BECAUSE it would be a hardship not to have an additional stall for more storage.
- 8. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE the township changed the width of the ROW which changed the setback.
- 9. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE it will not affect public safety; was a storage area anyway.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Dale Weis **SECOND:** Janet Sayre Hoeft **VOTE:** 3-0

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ DATE: 11-13-2008
CHAIRPERSON

BOARD DECISIONS MAY BE APPEALED TO CIRCUIT COURT.