

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

*Janet Sayre Hoeft, Chair; Dale Weis, Vice-Chair; Don Carroll, Secretary;
Paul Hynek, First Alternate; Lloyd Zastron, Second Alternate*

PUBLIC HEARING BEGINS AT **1:00 P.M.** ON THURSDAY, FEBRUARY 12, 2015 IN ROOM 205, JEFFERSON COUNTY COURTHOUSE

CALL TO ORDER FOR BOARD MEMBERS IS AT 10:15 A.M. IN COURTHOUSE ROOM 203, PRIOR TO THE HEARING

SITE INSPECTION FOR BOARD MEMBERS LEAVES AT 10:30 A.M. FROM COURTHOUSE ROOM 203, PRIOR TO THE HEARING

1. Call to Order-Room 203 at 10:15 a.m.

Meeting called to order @ 10:17 a.m. by Janet Sayre Hoeft.

2. Roll Call

Members present: Hoeft and Don Carroll were present at 10:17 a.m.

Member absent: Dale Weis

Staff: Michelle Staff and Deb Magritz were present.

3. Certification of Compliance with Open Meetings Law Requirements

Hoeft acknowledged publication. Staff also presented proof of publication.

4. Review of Agenda

Carroll made a motion, seconded by Hoeft to approve the agenda; motion carried 2-0.

5. Approval of January 8 Meeting Minutes

Carroll made motion, seconded by Sayre Hoeft to approve the January 8, 2015 meeting minutes. Weis arrived at 10:19 a.m. during this agenda item. Motion carried 3-0.

6. Communications

There were no communications to discuss.

7. Site Inspections – Beginning at 10:30 a.m. and Leaving from Room 203

V1440-15 – Godfrey Enterprises LLC, **W6630 CTH B**, Town of Aztalan

V1441-15 – Douglas & Lisa Smithback, **W9699 Lake Drive**, Town of Sumner

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

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

Members present: Hoeft, Carroll and Weis

Members absent: None

Staff: Michelle Staff and Deb Magritz

9. Explanation of Process by Board of Adjustment Chair

The following was read into the record by Carroll:

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 12, 2015 in Room 205 of the Jefferson County Courthouse, Jefferson, Wisconsin. Matters to be heard are applications for variance from terms of the Jefferson County Zoning Ordinance. No variance may be granted which would have the effect of allowing in any district a use not permitted in that district. No variance may be granted which would have the effect of allowing a use of land or property which would violate state laws or administrative rules. Subject to the above limitations, variances may be granted where strict enforcement of the terms of the ordinance results in an unnecessary hardship and where a variance in the standards will allow the spirit of the ordinance to be observed, substantial justice to be accomplished and the public interest not violated. Based upon the findings of fact, the Board of Adjustment must conclude that: 1) Unnecessary hardship is present in that a literal enforcement of the terms of the ordinance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome; 2) The hardship is due to unique physical limitations of the property rather than circumstances of the applicant; 3) The variance will not be contrary to the public interest as expressed by the purpose and intent of the zoning ordinance. **PETITIONERS, OR THEIR REPRESENTATIVES, SHALL BE PRESENT.** There may be site inspections prior to public hearing which any interested parties may attend; decisions shall be rendered after public hearing on the following:

V1440-15 – Aztalan Inn/Godfrey Enterprises Property: Variance from Sec. 11.07(d) of the Jefferson County Zoning Ordinance to allow additions to the property at **W6630 CTH B** at less than the minimum required setback to the centerline and right-of-way of CTH B, and from Sec. 11.09(c) to exceed 50% of the structural members of that building to allow expansion of its footprint. The property is on PIN 002-0714-1713-009 (0.6 Acre) in a Business zone, Town of Aztalan.

Petitioner (or representative): Petitioner did not appear. No testimony was given.

V1441-15 – Douglas & Lisa Smithback: Variance from Sec. 11.10(d) to sanction a deck at less than the required setback from the ordinary high water mark of Lake Koshkonong. The site is at **W9699 Lake Drive** in the Town of Sumner on PIN 028-0513-3022-004 (0.18 Acre) in a Residential R-2 zone.

Petitioner (or representative): Doug Smithback, W9699 Lake Drive, wishes to keep their deck. It is cantilevered so as not to impinge on the ordinary high water mark of Lake Koshkonong. They've built a berm to slow water runoff from Lake Drive and try to be conscious of the property and do the right thing. Their neighbors are okay with the deck. Properties to the east are much nearer the lake than where the Smithbacks' deck has been constructed.

In favor: Letters from Harold Sawyer and Tracy and Dale Ferguson in favor of the request were read into the record.

Opposed: None

Town response: In favor and on file

Staff report: DNR responses from Kay Lutze and Rob Davis were read into the record by Weis and are now in the file. Michelle Staff reported that the house was reconstructed in 2004, at which point this part of the deck was requested but omitted because it didn't meet setback averaging. A 2005 grading permit inspection found the property to be in compliance. In 2013 the Zoning Department received a complaint and found that the additional deck area had been added without a permit.

Board questions: Carroll asked about the impact that the deck might have, specifically the square footage of the deck supports on the ground, and how high above ground the deck exists. The petitioner replied that there are two support posts, 6" x 6" on concrete.

Weis asked whether there would be safe access out of the sliding door without the deck. Staff pointed out that the door doesn't access this part of the deck.

Carroll asked the petitioners to elaborate regarding their steps toward water control. The petitioners spoke of their plantings and planters to keep the water from running directly from Lake Drive to the lake.

Carroll suggested that the Board move to decisions.

10. Decisions on Above Petitions (See following pages and files)

Weis made a motion to not hear V1440-15 for Aztalan Inn, Godfrey Enterprises Property petition because no one was present to represent it. Carroll seconded, and the motion carried, 3-0.

Motion by Carroll, seconded by Weis to approve V1441-15 for Douglas and Lisa Smithback. After discussion, the motion failed by a 3-0 vote.

Motion by Carroll, seconded by Weis to deny V1441-15. The motion carried on a 3-0 vote.

11. Adjourn

Weis made a motion, seconded by Carroll to adjourn; motion carried 3-0 to adjourn @ 1:55 p.m.

If you have questions regarding these variances, please contact the Zoning Department at 920-674-7113 or 920-674-8638. Variance files referenced on this hearing notice may be viewed in Courthouse Room 201 between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, excluding holidays. Materials covering other agenda items can be found at www.jeffersoncountywi.gov.

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 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.

Secretary

Date

**DECISION OF THE ZONING BOARD OF ADJUSTMENT
JEFFERSON COUNTY, WISCONSIN**

FINDINGS OF FACT

PETITION NO.: 2015 V1440

HEARING DATE: 02-12-2015

APPLICANT: Gregg/Darren Godfrey

PROPERTY OWNER: Godfrey Enterprises LLC (Aztalan Inn)

PARCEL (PIN #): 002-0714-1713-009

TOWNSHIP: Aztalan

INTENT OF PETITIONER: To add deck and addition to restaurant to exceed 50% of existing structural members and at less than the minimum required setback to the centerline and right-of-way of CTH B.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.09(c) & 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:

Since 1972 the structure has had multiple permits issued for structural alterations and additions and does not have any further non-conforming percentage left of the 50% , therefore as indicated by the Zoning Department 2014 permit issue an addition would require variances from the Jefferson County Board of Adjustment. The structure does not meet road setbacks from both CTH B and CTH Q and is within the vision triangle of these two roads. The petitioner would like to add additions to the existing structure but the exact setbacks of the additions are not known at this time. It appears the structure is currently 10 feet from the right-of-way.

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

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

APPLICANT DID NOT ATTEND THE PUBLIC HEARING ON 2-12-15, THEREFORE THE BOARD OF ADJUSTMENT VOTED NOT TO HEAR THE REQUEST. THE MATTER HAS BEEN RESCHEDULED FOR 3-12-15

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 NOT VIOLATED.

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

1. 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 _____

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

3. 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 **WAS NOT HEARD; MOTION MADE AND SECONDED NOT TO HEAR THE VARIANCE BECAUSE NO ONE WAS IN ATTENDANCE TO REPRESENT THE PETITION.**

MOTION: WEIS **SECOND:** CARROLL **VOTE:** 3-0

CONDITIONS OF APPROVAL/DENIAL: **THE PETITION WAS NOT HEARD ON 2/12/15, BUT WAS RESCHEDULED FOR 3/12/15 AT 1:00 P.M.**

SIGNED: _____ DATE: _____ 02-12-2015
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.: 2015 V1441

HEARING DATE: 02-12-2015

APPLICANT: Douglas & Lisa Smithback

PROPERTY OWNER: SAME

PARCEL (PIN #): 028-0513-3022-004

TOWNSHIP: Sumner

INTENT OF PETITIONER: After-the-fact variance for a deck within 75 and 35 feet of the OHWM of Lake Koshkonong

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.10(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:

In 2004, Zoning Department issued a permit for a new residence (reconstruction). Ordinary High Water Mark Setback was established with Zoning and DNR staff. A proposed deck was indicated on the site plan but was omitted due to the fact that it did not meet setback averaging. In 2005, a permit for shoreland grading was issued from the Zoning Department and Zoning staff was on site. Photos taken at that time showing that the deck was not constructed and that the property was compliant. In 2013, it came to the attention of the Zoning Department that a deck was constructed without permits on this property. The deck is 23.70 feet from the OHWM of Lake Koshkonong, whereas, Section 11.10 (2) does not allow structures closer than 35 feet.

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 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 NOT VIOLATED.

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

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

- 5. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE the property has unique physical challenges

- 6. THE VARIANCE **WILL** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE the deck invades a protected zone

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Don Carroll

SECOND: Dale Weis

VOTE: 3-0

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ DATE: 02-12-2015
CHAIRPERSON

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