

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

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

PUBLIC HEARING BEGINS AT **1:00 P.M.** ON **FRIDAY, OCTOBER 7, 2016**
IN ROOM 205, JEFFERSON COUNTY COURTHOUSE

CALL TO ORDER FOR BOARD MEMBERS IS AT 10:00 A.M. IN
COURTHOUSE ROOM 203, PRIOR TO THE HEARING

SITE INSPECTION FOR BOARD MEMBERS LEAVES AT 10:15 A.M.
FROM COURTHOUSE ROOM 203, PRIOR TO THE HEARING

1. Call to Order-Room 203 at 10:00 a.m.

Meeting called to order @ 10:00 a.m. by Weis

2. Roll Call (Establish a Quorum)

Members present: Carroll, Weis, Hoeft

Members absent: ----

Staff: Rob Klotz, Matt Zangl, Laurie Miller

3. Certification of Compliance with Open Meetings Law Requirements

Staff presented proof of publication.

4. Approval of the Agenda

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

5. Approval of August 11, 2016 Meeting Minutes

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

6. Communications and Public Comment

Rob discussed with the Board shortening up the time between the morning meeting and site inspection by 5-10 minutes as needed. Carroll made motion, seconded by Weis, motion carried 3-0 on a voice vote to approve.

Rob noted that Matt Zangl would be doing the variances in the future, and that no one was present for public comment.

Hoelt requested that a copy of the ordinance sections that were applicable to the petitions be included in the files for review at hearing.

7. Site Inspections – Beginning at 10:15 a.m. and Leaving from Room 203

V1590-16 – Joshua I Fye, W1789 County Road CW, Town of Ixonia

V1591-16 – Alton Ciha/Norman Eggert Trust Property, W9299 Oakland Rd, Town of Oakland

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

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

Members present: Carroll, Weis, Hoelt

Members absent: -----

Staff: Rob Klotz, Matt Zangle, Laurie Miller

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 **Friday, October 7, 2016** 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; discussion and possible action shall be occur after public hearing on the following:

V1590-16 – Joshua I Fye: Variance from Sec. 11.04(f)6 of the Jefferson County Zoning Ordinance to allow a garage at 13 feet from a side lot line in an A-1, Agricultural zone. The site is at **W1789 County Road CW** in the Town of Ixonia, on PIN 012-0816-0511-002 (2.5 Acres)

Joshua Fye (W1789 County Road CW) presented his petition. He stated that he was asking to be allowed to build a garage utilizing an existing garage foundation. The other location would be too far from the house to be used and there would be problems accessing the septic for service at the other location.

In favor was Kathy Fye (W179 County Road CW). She stated that they needed to have a garage because they don't have one, and would like to use the existing foundation. Joshua added that this lot had been split off from the adjacent lands and commented on the setbacks at that time.

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

Klotz commented on the survey. When establishing lot lines for a land split, there are no setbacks for fill which is what the cement pad is considered. The setback requirements used today were established in 1975. There is an extensive amount of fill and an existing foundation. The other location on the property would be lower. It was there when the property was purchased, and it would be advantageous to use something that is already there. They are somewhat restricted in that the building site is where it is. They would not violate the public interest because a detached garage is permitted in that zone. They have a house and barn, but they don't have a garage. Klotz felt it met the three tests for variance approval. Their request is reasonable. If it was a brand new spot and they wanted to build 13' from the lot line, there would be no basis for a reduced setback. They are asking to use something that already exists.

Hoelt noted that when they were out there on site inspections, it looked like there was an area where they were parking and there was a lot of empty space there; however, after reviewing the file, she made note of the letter of explanation in the file regarding the ramifications of moving the garage to another location entirely. She asked the petitioner to explain. The petitioner explained that he would have to circumvent the entire property in order to enter the barn. Hoelt asked the petitioner about the well and septic locations. The petitioner explained that if the garage was put in the other location, there would be difficulties with servicing/accessing the septic.

Carroll noted the setbacks have a purpose, and made comment that by reducing the setback, it imposes on the adjacent property which is agricultural. The 20' is there for a purpose. He noted that in some situations or occasions in the past, this has been a problem. They would have to consider the impact on this property. Klotz commented that all adjoining property owners were noticed. If the reduced setback would in any way harm or impede the agricultural use of the property, the adjacent property owner could have been responded. The petitioner noted that those lands were not likely to be developed and further explained. Klotz explained that this is agricultural use of the property at this time. The petitioner explained that the farmer has had room to turn around and further explained. Carroll explained the Board's responsibility to look at the land.

V1591-16 – Alton Ciha/Norman & Judith Eggert Trust: Variance from Sec. 11.09(c) and 11.09(e) to allow an addition to a non-conforming residence at **W9299 Oakland Road**, Town of Oakland, on PIN 022-0613-0533-014 (0.22 Acre). The property is zoned Residential R-1.

Alton Ciha (W9299 Oakland Road) presented the petition. Norman Eggert (W1042 Hubbleton Road) was also present. Ciha stated that their family has expanded because of a recent adoption, and that they needed to add onto the home. The variance was needed to add on 50% more of square footage than the existing house. He explained the existing square footage of the house was about 1,000 square feet and wanted to add 950 square feet. They will not be any closer to the road or the property line behind them. There is a property slope from north to south. There is an existing basement that will be converted to an attached garage under the home with living space above. There is no garage on the property.

There were no questions or comments in favor or opposition of the petition. There was a town decision in file approving the petition with a recommendation that the property be bermed at the south and west of the lot with a rain garden to retain water run-off. This was read into the record by Weis.

There was a brief discussion regarding the building permit application in the file.

Klotz noted that the area has a lot of platted, sub-standard lots that do not meet the standards as we require presently. There are a lot homes that exist on these small, irregularly shaped lots with sub-standard roads and widths. The house as it exists has less than the square footage allowed for a single family home. They are adding onto a single family home to make it more livable at least to current standards which is now grandfathered, but not in conformance to today's standards. Klotz felt that by allowing them to add on the structure and make it a more livable size would be reasonable. The property is on public sewer so not as much area is needed if they had a private septic or needed a septic replacement. As seen on the onsite inspection, the structure is non-conforming because its close proximity to the lot line. This addition is on the opposite end. There is slope on the property.

Klotz stated there was a discrepancy in the square footage. The permit indicated it would be 896 square feet; however, the petitioner stated it would be 950 square feet – we would need clarification on that. There would be a second story living space and a first story for an attached garage. There is no garage on the property. Klotz further explained the reason for the variance was a 50% footprint expansion and/or 50% structural element expansion as defined in the ordinance. Ciha confirmed the square footage was 896 square feet.

Weis explained that personal circumstances are not a consideration for a variance request. The variance is because it's a house addition on a non-conforming lot, and the Board would be looking at allowing the expansion of the structure. Weis further explained.

Hoelt noted that the house is smaller than standard. She asked the petitioner to explain the town's recommendation about berming and a rain garden. Eggert stated that the town was concerned about runoff onto the neighbor's property and further explained. Hoelt asked if they knew anything about rain gardens. Eggert said he did not and he further explained. Hoelt explained a rain garden.

Carroll explained that the Board is not bound by a town's recommendation and noted this was a legal, non-conforming lot. Consideration would be the lot location, size, and location of the house. Eggert noted that he also owned the lot to the north.

Weis asked staff to explain the restrictions for run-off. Klotz stated there were no restrictions for the county except in the shoreland areas within 300' of the lake. The town building inspector has construction erosion rules regarding run-off. The Board can grant a variance with any number of conditions if the conditions directly apply to the variance. Klotz further explained. The Board would have to make it part of their decision and suggested the Board give them options. Weis commented on the size of the lot, when it was established, and run-off issue options. There was further discussion on options for any run-off issues.

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

11. Adjourn

Hoelt made motion, seconded by Weis, motion carried 3-0 on a voice vote to adjourn @ 2:04 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.

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

Secretary

Date

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

FINDINGS OF FACT

PETITION NO.: 2016 V1590
HEARING DATE: 10-7-2016

APPLICANT: Joshua I & Catherine M Fye

PROPERTY OWNER: SAME

PARCEL (PIN #): 012-0816-0511-002

TOWNSHIP: Ixonia

INTENT OF PETITIONER: To construct a detached garage in an A-1 Zone
utilizing an existing foundation at 13' from the side lot line.

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:

A-1 zoning district side yard minimum setback = 20'

Proposed structure will utilize an existing foundation

The existing is at 15' with a 13' setback proposed due to a 2' overhang

Accessory residential use & storage only

No business use, habitable use or water service proposed

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:

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 the slope of the land requires a location that would not increase runoff. There would be minimal impact to the adjacent properties. The alternative location would impede access for service of the septic system. Everyone is entitled to a garage.

2. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE this property was created from the farmland property. The location of the garage floor did not meet the 20' setback. The septic & farm fields are where they are. Multiple physical features of the property justifies using the existing foundation.

3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE they will not be adding to the amount of land covered, and it will provide storage of vehicles. It improves the site and appearance of the land. The farmer has room to turn around. The town board was in favor. There are no site line issues.

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/DENIAL:

SIGNED: _____ **DATE:** 10-07-2016
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.: 2016 V1591
HEARING DATE: 10-07-2016

APPLICANT: Alton Ciha

PROPERTY OWNER: Norman & Judith Eggert Trust

PARCEL (PIN #): 022-0613-0533-014

TOWNSHIP: Oakland

INTENT OF PETITIONER: To construct a 2-story addition to a non-conforming structure exceeding 50% of the structural members as well as 50% of the footprint of the existing structure.

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

- 11.09 applies
- Addition is greater than 50% of the existing footprint
- Addition is in excess of 50% of its structural members
- Town of Oakland approval with berm & rain garden recommendation
- 2-story addition - ?? 896 square foot addition to residence
 - 896 square foot addition – attached garage
- Zone R-1 – minimum setbacks (substandard lot):
 - 25' to ROW
 - 5' side setback
 - 15' rear setback

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

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

