

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 MAY 10, 2018 IN ROOM 205,
JEFFERSON COUNTY COURTHOUSE

CALL TO ORDER FOR BOARD MEMBERS IS AT 11:00 A.M. IN
COURTHOUSE ROOM 203, PRIOR TO THE HEARING

SITE INSPECTION FOR BOARD MEMBERS LEAVES AT 11:10 A.M.
FROM COURTHOUSE ROOM 203, PRIOR TO THE HEARING

1. Call to Order-Room 203 at 11:00 a.m.

Meeting called to order @ 11:00 a.m. by Weis

2. Roll Call (Establish a Quorum)

Members present: Weis, Carroll, Hoeft

Members absent: ----

Staff: Matt Zangl, Sarah Higgins, Laurie Miller

3. Certification of Compliance with Open Meetings Law

Hoeft acknowledged publication. Staff also 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 April 12, 2018 Meeting Minutes

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

6. Communications and Public Comment

Hoeft questioned Act 67, non-conforming structures. There was discussion.

7. Site Inspections – Beginning at 11:10 a.m. and Leaving from Room 203

V1626-18 – Thomas Wilson/William & Judy Huebner/Lindlland Property,
near Hess Ln, Town of Hebron

V1627-18 – John & Beverly Hachtel, W2491 Hanson Rd, Town of Sullivan

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

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

Members present: Weis, Carroll, Hoeft

Members absent: ----

Staff: Matt Zangl, Sarah Higgins, Laurie Miller

9. 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, May 10, 2018 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 may occur after public hearing on the following:

V1626-18 – Thomas Wilson/William & Judy Huebner Property, Lindlland

Property: Variance from Sec. 11.03(d)1 of the Jefferson County Zoning Ordinance to allow access to Lindlland property [PIN 010-0615-2643-000 (40 acres)], a proposed Natural Resource zone, without 66 foot of access and frontage on a public road. The site is **near W2885 Hess Lane** in the Town of Hebron, with access proposed over PIN 010-0615-2644-000 (20.289 Acres).

Tom Wilson, 415 Shore Drive, Mukwanago, presented the petition. He state he would be purchasing lands from Lindl to use for Natural Resource land for hunting and fishing. William Huebner, W2885 Hess Lane, stated that they were going through his property for access of 20' wide for a foot trail or the parcel would be landlocked.

Weis clarified that the requirement for access is 66' and they were asking for a 20' ROW without deeding the land. Huebner stated that they couldn't split the land for a deeded access because it's zoned A-3.

In favor was Loren Lindl, N2751 Haas Road. There were no questions or comments in 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 Zangl. He stated that Sec. 11.04(d)1 states that each parcel is required to have a 66' frontage & access to a public road. The petitioner wants to buy a parcel that does not have access to a public road. They are asking to access with property with a 20' walking trail. He asked the petitioner if this would be a recorded easement. Huebner stated he believed so. Zangl stated the parcel is zoned A-1, Agricultural. It is on May's agenda to be rezoned to Natural Resources. This is primarily floodplain and wetland, and for recreational purposes. Zangl asked the petitioner if there were any proposed structures. Wilson stated there will be no structures. Zangl explained that structures would be limited due to the floodplain, wetland and Natural Resource Zone.

Weis explained the reason and problems with deeding lands through another property creating divisions that are not desirable, and noted that he did need access because of it being landlocked. The Natural Resource Zone is more for recreation and because of the floodplain, it cannot be developed. Hoeft commented that the Bark River was also on the back of this property.

V1627-18 – John & Beverly Hachtel: Variance from Sec. 11.03(d)1 of the Jefferson County Zoning Ordinance to allow access to a proposed Natural Resource zone, PINs 026-0616-3033-000 (39.72 Acres) and 026-0616-3034-000 (40 Acres) over the Dale Hachtel property, PIN 026-0616-3032-000 (39.146 Acres) without 66 foot of access and frontage on a public road. The site is near **W2491 Hanson Road** in the Town of Sullivan.

Attorney Dave Westrick presented the petition. He stated the Hachtels, who were also present, live at W2479 Hanson Road. John & Beverly Hachtel have owned the property since 1967. In 1998, they sold the front parcel to their son, Dale. They went through an individual lawsuit with their son. It was settled with the stipulation that the 66' ROW access ownership be transferred back to Dale, and Dale then had agreed to an easement for the 2 back parcels. They found out that isn't allowed and the 66' access by ownership should have been kept. It was already settled and the judge accepted the easement. When they went to record the easement, they found out through Zoning that it couldn't be done.

They are asking that the easement access be granted. There is a legal description and it has already been drafted and recorded. The back 2 parcels are landlocked without the easement with no other way to get to the property. The property is currently zoned A-1, Agricultural. There is a pending rezoning petition to rezone the properties to a Natural Resource Zone. There has always been a driveway for access for years so there is really no change, they are now asking for change from ownership to an access easement.

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

Staff report was given by Zangl. He noted the property is currently zoned A-1, Agricultural. He explained the history in that there was originally a 66' access strip by ownership. The access has since been sold which now makes the 80 acres to the south landlocked. To solve this, they are asking this to be rezoned to Natural Resource and the variance for an easement. They are currently on May's agenda for the rezoning. The property mainly consists of floodplain and wetland with approximately 35% of it being cropland. The Natural Resource Zone does allow for light agricultural uses such cropping. If they would continue to crop the land, they may need a Conditional Use Permit review.

Sec. 11.04(d)1 requires there be 66' frontage and access to a public road. They have already recorded the easement, and are now trying to make it legal. This is all recreational land, and no residential development is allowed.

Weis asked Zangl what the effect would be if the Planning & Zoning Committee did not approve the Natural Resource Zone. Zangl explained and stated that they would probably approve because this was the simplest and easiest way to resolve the problem. Carroll commented they could make this request contingent upon positive action of the Planning & Zoning Committee. Zangl went over possible conditions the Board could impose. Weis commented that with Natural Resource properties and

with this being landlocked, it could be sold separately so they do need access to the property. Approval of this type of request is commonly done.

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

11. Adjourn

Carroll made motion, seconded by Weis, motion carried 3-0 on a voice vote to adjourn @ 1:49 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.: 2018 V1626
HEARING DATE: 05-10-2018

APPLICANT: Thomas Wilson

PROPERTY OWNER: William C & Judy A Huebner and Lindlland LLC

PARCEL (PIN #): 010-0615-2644-000 & 010-0615-2644-000

TOWNSHIP: Hebron

INTENT OF PETITIONER: Create a Natural Resource zone without frontage to public road or 66 foot of access.

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:

- Petitioner is proposing a 20 ft wide foot trail for access
This will be a recorded easement?
- Currently zoned A-1 – Planning and Zoning Committee will hear petition for rezone for Natural Resource in the month of May
- Parcels are primarily wetland and floodplain
- Property will be used for recreational purposes?

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 _____

PETITION NO.: 2018 V1627
HEARING DATE: 05-10-2018

APPLICANT: John & Beverly Hachtel

PROPERTY OWNER: SAME

PARCEL (PIN #): 026-0616-3033-000 & 026-0616-3034-000

TOWNSHIP: Sullivan

INTENT OF PETITIONER: Create a Natural Resource zone with access by a 60 ft easement.

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:

- Petitioner is proposing a 60 ft strip easement to access 80 acres
This will be a recorded easement?
- Currently zoned A-1 - Planning and Zoning Committee will hear petition for rezone for Natural Resource in the month of May
- Property will be used for recreational purposes?

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** 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 was caused by another scriber.
There was a legal dispute regarding the access to the now landlocked property which was resolved by granting an easement inconsistent with zoning regulations.
5. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE there would be no access without this approval. It's agricultural land which does not require a full 66' ROW. It's mostly floodplain & wetland & landlocked.
They need to be able to get back to those 2 parcels.
6. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE it will allow access to 2 pre-accessible properties. Access to the property is required for safety, and has been approved by the Town Board.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Weis to use the easement as proposed **SECOND:** Carroll **VOTE:** 3-0

CONDITIONS OF APPROVAL: **Obtain rezoning approval from A-1 to NR.**

SIGNED: _____ DATE: 05-10-2018
 CHAIRPERSON

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