

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

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

PUBLIC HEARING BEGINS AT **1:00 P.M.** ON APRIL 14, 2011, 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 @ 10:03 a.m. by Janet Sayre Hoeft

2. Roll Call

Members present: Janet Sayre Hoeft, Donald Carroll

Members absent: Dale Weis

Staff: Laurie Miller, Michelle Staff

3. Certification of Compliance With Open Meetings Law Requirements

Hoeft acknowledged publication. Staff also presented proof of publication.

4. Review of Agenda

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

5. Approval of March 10, 2011 Meeting Minutes

Hoeft made motion, seconded by Carroll, motion carried 2-0 to approve the March 10, 2011 meeting minutes.

6. Set Future Meeting Schedules

Carroll made motion, seconded by Hoeft to continue to hold Board of Adjustment Meetings every Thursday of the month. Hoeft noted that she will not be present for the September 9, 2011 meeting. *(Correction made at 5/12/2011 meeting to read every second Thursday of the month.)*

Dale Weis present for site inspections @ 10:12 a.m.

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

V1361-11 – Gene Olson, N5322 Watertown Rd., Town of Aztalan

V1363-11 – Lane Albrecht, W9380 Ripley Rd., Town of Oakland

V1362-11 – James Reu, N939 CTH D, Town of Cold Spring

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

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

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

Members absent: ---

Staff: Laurie Miller, Michelle Staff

Procedure was explained by Hoeft.

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, April 14, 2011 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:

V1361-11 – Gene Olson: Variance from Sec. 11.04(d) of the Jefferson County Zoning Ordinance to allow a third accessory structure in a Residential R-2 zone. The site is on PIN 002-0714-2643-004 (0.84 Acre) in the Town of Aztalan at **N5322 Watertown Rd.**

The petitioner or representative was not present to present the petition. Carroll made motion, seconded by Dale Weis, motion carried 3-0 to table the hearing of this petition.

V1362-11 – James Reu: Variance from Sec. 11.04(f)5 to create a new lot line at less than 20 feet from an existing ag structure for a proposed farm consolidation lot. The property is in the Town of Cold Spring on PIN 004-0515-2243-000 (39.445 Acres) in an A-1 Agricultural zone.

Matt Reu presented this petition. Heather Rue also presented information relating to the petition. There were no questions or comments in favor or opposition of the petition.

There was a response from the town in the file which was read into the record by Hoeft approving this petition. Staff gave staff report.

Carroll question if the petitioner was O.K. that if the structure needed to be replaced, would they then meet the setbacks. He also questioned the animals on the three acre site. Weis questioned staff if the petitioner was given the option of a variance/conditional use to exceed the number of animal units. Weis questioned the petitioner(s) if they were aware of alternative options. Carroll questioned the ownership of the lands, i.e. the farm consolidation and the remaining lands. Carroll also questioned who was requesting the variance.

V1363-11 – Lane Albrecht: Variance from Sec. 11.04(f)1. to reduce the side yard setback to less than 10 feet for an addition to a residence in an R-1 zone. The property is on PIN 022-0613-0644-118 in the Town of Oakland, at **W9380 Ripley Road.**

Lane Albrecht presented his petition. There were no questions or comments in favor or opposition of the petition.

There was a town response in the file which was read into the record by Carroll approving this petition. Staff gave staff report.

Hoeft questioned the petitioner if they got an O.K. from the condo association in writing. Carroll questioned if the petitioner would object to having the condition that he submit approval in writing from the association.

Petition 2011 V1361 – Gene Olson was called again. Petitioner was not present.

Carroll made motion, seconded by Hoeft, motion carried 3-0 to close the hearing and proceed with the decisions.

9. Decisions on Above Petitions (See Files)

10. Adjourn

Motion to adjourn @ 1:17 p.m. was made by Carroll, seconded by Hoeft, motion carried 3-0.

If you have questions regarding these matters, please contact the Zoning Department at 920-674-7113 or 920-674-8638.

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.

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

FINDINGS OF FACT

PETITION NO.: 2011 V1361
HEARING DATE: 04-14-2011

APPLICANT: Gene Olson

PROPERTY OWNER: Gene A. & Carron K. Olson

PARCEL (PIN #): 002-0714-2643-004

TOWNSHIP: Aztalan

INTENT OF PETITIONER: To allow three (3) accessory structures within an R-2 Residential District.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(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:

This petition is an after-the-fact request for three(3) structures on an R-2 zoned property. Currently, the property has three detached structures, 144 sq. ft. shed, 900 sq. ft. garage and 1200 sq. ft. garage whereas the zoning ordinance only allows two (2) detached structures in the R-2 zone. In 2007, the petitioner was granted a conditional use permit and a zoning permit to add on to an existing 900 sq. ft. garage. It was brought to the attention to this department that the petitioner did not add onto the existing structure as permitted but built a stand-alone garage instead, creating three structures in an R-2 zone.. The petitioner is asking to sanction an additional structure on the property.

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

FINDINGS OF FACT

PETITION NO.: 2011 V1362

HEARING DATE: 04-14-2011

APPLICANT: James G. Reu

PROPERTY OWNER: SAME

PARCEL (PIN #): 004-0515-2243-000

TOWNSHIP: Cold Spring

INTENT OF PETITIONER: To create a new lot with an existing structure to be less than 20' from the lot line.

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:

The petitioner has a 120 acre farm, and originally asked for a farm consolidation split including all buildings. This request did not require a variance. Subsequently, the petitioner revised the request to exclude one building from the land division which now requires a variance. The proposed lot line would be 13 feet from the structure whereas the required setback is 20 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

FINDINGS OF FACT

PETITION NO.: 2011 V1363

HEARING DATE: 04-14-2011

APPLICANT: Lane Albrecht

PROPERTY OWNER: Lane E. & Sheryl A. Albrecht

PARCEL (PIN #): 022-0613-0644-118

TOWNSHIP: Oakland

INTENT OF PETITIONER: To construct a 27'x10' addition to a non-conforming structure too close to the lot line.

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

Currently, the structure meets the required R-1 setback of 10 feet from the side lots lines. The structure is non-conforming due to the multiple dwelling units on this property. The petitioner is asking to expand the non-conforming structure by adding a 27 feet x 10 feet addition to a non-conforming structure, less than 50% of the fair market value. The petitioner is asking for a side setback variance of 3' 10" whereas the required setback is 10 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:

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 the property classification causes the hardship because of the condo association. This is a high density setting, and this property has structures with similar setbacks. They are converting it from a vacation home to a year-round home. The regular size of this area is limited.

8. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE the property classification causes the hardship because of the condo association. The addition is otherwise allowed & does not exceed 50%. All other units are similarly situated.

9. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE of the written approval from the condo board and the approval of the town board.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS GRANTED.

MOTION: Carroll **SECOND:** Weis **VOTE:** 3-0

CONDITIONS OF APPROVAL: The petitioner is to submit written approval from the condo board to be submitted prior to issuance of the zoning permit.

SIGNED: _____ DATE: 04-14-2011

CHAIRPERSON

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