

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 THURSDAY, FEBRUARY 10, 2011, 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 at 9:45 a.m.

Meeting called to order by Janet Sayre Hoeft @ 9:50 a.m.

2. Roll Call

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

Members absent: --

Staff: Laurie Miller, Michelle Staff

3. Certification of Compliance With Open Meetings Law Requirements

Janet Sayre Hoeft acknowledged publication. Staff also provided proof of publication.

4. Review of Agenda

Donald Carroll made motion, seconded by Dale Weis, motion carried 3-0 to approve the review of the agenda.

5. Approval of January 13, 2011 Meeting Minutes

Donald Carroll made motion, seconded by Dale Weis, motion carried 3-0 to approve the January 13, 2011 meeting minutes.

6. **Site Inspections – Beginning at 10:00 a.m. and Leaving from Room 203**
V1357-11 – Nick Baumann, N3759 CTH Y, Town of Jefferson
V1359-11 – Theresa Kitzman-Kelley, N4294 CTH E, Town of Sullivan
V1358-11 – Brad & Pam Seidl, N7339 CTH N, Town of Milford

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

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

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

Members absent: --

Staff: Laurie Miller, Michelle Staff

Janet Sayre Hoeft explained procedures.

Donald Carroll read into record the following:

***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 10, 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:

V1357-11 – Nick Baumann: Variance from Sec. 11.04(f)5 of the Jefferson County Zoning Ordinance to reduce the minimum side/rear yard setback for a proposed accessory structure/detached garage in an A-1 Agricultural zone. The site is at **N3759 CTH Y** in the Town of Jefferson on PIN 014-0615-1843-001 (2.169 Acres).

Nick Baumann presented his petition. There were no questions or comments in favor or opposition of the petition.

There was a response in the file of approval which was read into the record by Donald Carroll.

Michelle Staff gave staff report.

Donald Carroll questioned the petitioner on the need of the proposed size of structure. Janet Sayre Hoeft questioned staff on what could be built and still meet the setbacks. Janet questioned the petitioner if this would be replacing the shed that's there now, and if it would be coming any closer to the road. Dale Weis questioned the square footage and the encroachment as well as if the petitioner inquired if the county Highway Department would allow another driveway. Dale also questioned staff on the road setbacks.

V1358-11 – Brad & Pam Seidl: Variance from Sec. 11.07(d) to reduce the centerline and right-of-way setbacks for construction of a detached garage at **N7339 CTH N** in the Town of Milford. The site is on PIN 020-0814-3633-002 (1.37 Acres) in an A-1 Agricultural zone.

Brad Seidl presented his petition. There were no questions or comments in favor or opposition of the petition.

Don Carroll read into the record a response from the town of approval which was found in the file.

Staff report was given by Michelle Staff.

Dale Weis questioned staff if the garage could be attached to the house. Dale also questioned the petitioner how difficult it would be to attach it to the house as well as if CTH N was planning to be rebuilt. Janet Sayre Hoeft questioned the use of the other buildings. Donald Carroll questioned the lot line, and if the adjacent barn was on his property.

V1359-11 – Theresa A. Kitzman-Kelly: Variance from Sec. 11.04(f)5 for reduced side yard setback and 11.07(a)2 to allow a silo to exceed in height, twice its distance to a proposed lot line. The site is at **N4294 CTH E** in the Town of Sullivan, on PIN 026-0616-1132-000 (29.480 Acres) and 026-0616-1123-000 (36.306 Acres) in an A-1 Agricultural zone.

Theresa Kitzman-Kelly presented her petition. In favor was Daryl Payne. There were no questions or comments in opposition of the petition.

There was a response from the town in the file of no objection, and was read into the record by Donald Carroll.

Staff report was given by Michelle Staff.

Donald Carroll made a statement of the location of the existing buildings and setbacks. Dale Weis questioned the use of the silo and how long it was since it was used.

8. Decisions on Above Petitions - Beginning @ 1:33 p.m. (See also files)

9. Adjourn

Motion was made by Dale Weis, seconded by Donald Carroll, motion carried 3-0 to adjourn @ 2:25 p.m.

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 V1357

HEARING DATE: 02-10-2011

APPLICANT: Nicholas H. Baumann

PROPERTY OWNER: SAME

PARCEL (PIN #): 014-0615-1843-001

TOWNSHIP: Jefferson

INTENT OF PETITIONER: To construct a 30'x40' (1,200 sq. ft.) detached garage 10' from the rear 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:

House was constructed in 1969. There is no permit for the existing shed. The road setback is 85' from the centerline and 50' from the R.O.W., and 20' from the side lot line.

The proposed detached 30'x40' (1,200 sq. ft.) structure is proposed at 10' from the rear lot line whereas 20' is required.

The septic is behind the existing residence. A detached structure could be located north of the existing residence but would require an additional driveway off of CTH Y or a driveway across the front of the lot.

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 it's the only practical site to put the garage. He cannot build to the west. Building to the north would require him to put in a new driveway. This would keep everything in the building.

Don Carroll was opposed because it is the owner's desire and there are other options available.

2. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE of the nature of the lot.

Don Carroll was opposed because the petitioner can reduce the size of the garage or put in a driveway on the other road.

3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE of town approval, and the neighbor was O.K. with it. There would be no impact on public interest

4.

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:** 2-1

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ **DATE:** 02-10-2011
 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.: 2011 V1358
HEARING DATE: 02-10-2011

APPLICANT: Bradley R. & Pamela T. Seidl

PROPERTY OWNER: SAME

PARCEL (PIN #): 020-0814-3633-002

TOWNSHIP: Milford

INTENT OF PETITIONER: To build a new 32'x40' (1,280 sq. ft.) detached garage 51' from the centerline and approximately 15' from the R.O.W.

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:

The petitioner is proposing a new 32'x40' (1,280 sq. ft.) detached garage at 15' from the R.O.W. and 51' from the centerline whereas the required setback is 85' from the centerline and 50' from the R.O.W.

The lot is 1.37 acres. There are available lands to build this size of structure without variances. In fact, there are 2 additional detached structures on the property that give the petitioner reasonable use of the property. Additional storage could be added to the existing detached structures, or, the existing structures could be rebuilt which could meet all the required setbacks.

The setbacks are shown on the attached certified survey map. The existing house is non-conforming.

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:

- 5. 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 owner is entitled to a garage to store a vehicle.
- 6. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE this is a difficult site due to the topography and septic location. It's not feasible to attach the garage to the house. It keeps in line with the existing house. It's the only place to put a garage of this size.
- 7. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE it's no closer to the road than any other existing building. There is town board approval. There is no impact on public interest, and there was no feedback from the county Highway Department.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

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

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ **DATE:** 02-10-2011
CHAIRPERSON

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DECISION OF THE ZONING BOARD OF ADJUSTMENT

JEFFERSON COUNTY, WISCONSIN

FINDINGS OF FACT

PETITION NO.: 2011 V1359

HEARING DATE: 02-10-2011

APPLICANT: Theresa A. Kitzman-Kelly

PROPERTY OWNER: SAME

PARCEL (PIN #): 026-0616-1123-000 & 026-0616-1132-000

TOWNSHIP: Sullivan

INTENT OF PETITIONER: To create a new lot with a silo not meeting the required setback of twice its distance from the nearest lot line.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f) & 11.07(a)2 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 is proposing a new lot line with a setback of the silo of 37' whereas the required setback is 47.5' because the height of the structure is 95'. The silo is required to be twice its distance from the nearest lot line.

The reason for this request is to create a new lot line between 2 existing structures. The lot line can be reconfigured to include the building in the lot, meet the setbacks, and still be within the required 3 acres for farm consolidation.

They may build an agricultural building on the remainder of the lands meeting all setback requirements. The remaining land must have access from CTH E.

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:

- 8. 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 farm consolidation limits them to 3 acres. It's only a variation of 10'.
- 9. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE the buildings exist.
- 10. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE there is no change and no impact.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION: Don Carroll **SECOND:** Janet Sayre Hoeft **VOTE:** 2-1

Dale Weis was opposed because it is a self-created hardship.

SIGNED: _____ **DATE:** 02-10-2011
CHAIRPERSON

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