

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 DECEMBER 12, 2013 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 11:15 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 Hoeft

2. Roll Call

Members present: Hoeft, Carroll, Weis

Members absent: --

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 Weis, motion carried 3-0 to approve the review of the agenda.

5. Approval of October 10, 2013 Meeting Minutes

Carroll made motion, seconded by Hoeft, motion carried 2-0 to approve the October 10, 2013 meeting minutes.

Note: Weis abstained from vote. Was not present at this meeting.

6. Communications – None

7. Site Inspections – Beginning at 11:15 a.m. and Leaving from Room 203

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, Weis

Members absent: --

Staff: Laurie Miller, Michelle Staff

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, December 12, 2013 in Room 205 of the Jefferson County Courthouse, Jefferson, Wisconsin. The matter to be heard is an application 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 REPRESENTATIVE, SHALL BE PRESENT.** There may be a site inspection prior to public hearing which any interested parties may attend; a decision shall be rendered after public hearing on the following:

V1413-13 – Dane & Tammy Hartwig/Darryl & Donna Hartwig Property:
Variance to modify V15-76 to permit a one-acre farm consolidation rezoning around

the existing residence at W3912 CTH B. The parcel in question, PIN 008-0715-1621-002 (29.5 Acres) has an existing parcel freeze due to the original variance. The site is in the Town of Farmington in an A-1, Exclusive Agricultural zone.

Dane Hartwig stated that they would like to split off the house. The remaining ag land is adjoining to ag land they currently own, and will operate it as a farm.

Darryl Hartwig added that they were not looking for any additional development. This request would not affect the ag use.

There were no questions or comments in favor or 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.

Michelle Staff gave staff report. She explained that this was created by variance in 1976. In 1975, the ordinance required parcels to be 35 acres. In 1977-78, the A-3 zone was added to the ordinance. In the 2000 ordinance, it excluded parcels created by variance. The current ordinance allows splitting off an existing home through a rezoning process. The petitioners are only asking for the house to be split off, and the rest of the land to remain ag land.

Hoeft questioned the petitioner on the age of the home. Carroll questioned the ownership. Staff noted the original survey was replaced with a new sketch to include the septic. Carroll made motion, seconded by Hoft, motion carried 3-0 to accept the new sketch as part of the record.

Weis commented that this would bring it into conformance with the current ordinance. Staff noted that the A-1 land cannot be built upon unless they come back through a variance. Carroll questioned the petitioner if they would be okay with not being able to build on the remaining land. The petitioner responded they were okay with that. Carroll confirmed that the mound (septic) would be entirely on the A-3 lot and also addressed the petitioner and staff regarding the three criteria. Staff explained.

10. Decision on Above Petition (See following pages & files)

11. Adjourn

Motion made by Hoeft seconded by Weis, motion carried 3-0 to adjourn @ 1:35 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.: 2013 V1413
HEARING DATE: 12-12-2013

APPLICANT: Dane & Tammy Hartwig

PROPERTY OWNER: Darryl & Donna Hartwig

PARCEL (PIN #): 008-0715-1621-002

TOWNSHIP: Farmington

INTENT OF PETITIONER: This request is to modify variance 1976 V15 to split off the farmstead with one acre, but to keep the remainder of the parcel, approximately 28 acres, as farmland.

THE APPLICANT REQUESTS A VARIANCE FROM modification of a variance from 1976 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 1976, this farm was granted a variance to split off a lot less than the required 35 acres. At the time, the only lot size allowed in the rural area was 35 acres. The County experienced a lot of variances from this provision of the Ordinance. As a result, in 1977 the County added a new zone (A-3) that was less than the required 35 acres which requires a rezoning. This request is to modify variance 1976 V15 to split off the farmstead with one acre, but to keep the remainder of the parcel, approximately 28 acres, as farmland.

The lot is currently 29.50 acres and the petitioner is requesting that the existing farmhouse be split off to create a one acre lot. The petitioner is proposing the remainder of the 28.50 acres remain zoned A-1 Agricultural which will be used for cropland. No new residences are proposed with this request. The mound system is not entirely on this proposed lot and if this was granted the lot would need to be modified to the north to include the mound.

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 current zoning of the property is predating the county's updated zoning. Enforcement would be burdensome by not being able to create the parcel - it would be an A-3 residential unit making it saleable, and they would be able to work the remaining ag land.
2. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE this retains the ag use of the property and allows a residential structure that would meet the current ordinance standards. The existing home, which would be allowed to be split with farm consolidations, is a hardship. They are trapped between old & new ordinances.
3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE it meets the standards of the current Farm Preservation Act. There will be no additional lots split from the ag land, and will be conforming to the present day's ordinance.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

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

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ **DATE:** 12-12-2013
CHAIRPERSON

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