

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

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

PUBLIC HEARING BEGINS AT **1:00 P.M.** ON SEPTEMBER 12, 2013 IN ROOM 205, JEFFERSON COUNTY COURTHOUSE

CALL TO ORDER FOR BOARD MEMBERS IS AT 10:15 A.M. IN COURTHOUSE ROOM 203, PRIOR TO THE HEARING

SITE INSPECTION FOR BOARD MEMBERS LEAVES AT 10:30 A.M. FROM COURTHOUSE ROOM 203, PRIOR TO THE HEARING

1. Call to Order-Room 203 at 10:15 a.m.

Meeting called to order @ 10:15 a.m. by Carroll

2. Roll Call

Members present: Carroll, Zastrow, Hynek

Members absent: Weis, Hoeft

Staff: Laurie Miller, Michelle Staff

3. Certification of Compliance with Open Meetings Law Requirements

Staff presented proof of publication.

4. Election of Officers

Hynek made motion, seconded by Carroll, motion carried 3-0 to postpone election of officers until next month when all members are present.

5. Review of Agenda

Hynek made motion, seconded by Zastrow, motion carried 3-0 to approve the review of the agenda.

6. Approval of August 8, 2013 Meeting Minutes

Zastrow made motion, seconded by Carroll, motion carried 2-0 to approve the August 8, 2013 meeting minutes.

NOTE: Hynek abstained – was not present at this meeting.

7. Communications

Hynek was provided a copy of the WisLine Series handout from the May 15, 2013 training.

8. Site Inspections – Beginning at 10:30 a.m. and Leaving from Room 203

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

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

Members present: Carroll, Zastrow, Hynek

Members absent: Weis, Hoeft

Staff: Laurie Miller, Michelle Staff

10. Explanation of Process by Board of Adjustment Chair

The following was read into the record by Hynek:

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, September 12, 2013 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:

V1409-13 – Jason A. Fiege: Variance from Sec. 11.04(f)5 of the Jefferson County Zoning Ordinance to reduce the side yard setback in an A-T zone, where a 20-foot minimum is required and the petitioner requests an 11-foot setback for a garage addition. The site is in the Town of Koshkonong at **W6429 USH 12** on PIN 016-0614-3333-039 (0.75 Acre)

There was a town response in the file approving the petition, and was read into the record by Hynek.

Jason Fiege presented his petition. He wants a bigger garage. Carroll asked petitioner to explain hardship. Petitioner explained.

Staff report was given by Staff, and Staff explained options the petitioner has. Staff questioned the petitioner on the construction.

There was a letter in the file in favor of the petition from John Adamus (W6425 USH 12, Fort Atkinson) which was read into the record by Hynek.

Hynek questioned staff if most of the houses surrounding this house are in the city. Staff explained. Also questioned staff that if property was rezoned, what would be the cost? Staff responded. Hynek questioned if the current structure meets the standards. Staff responded. Hynek explained the fact finding process and questioning, and commented that they aren't allowed to ask for input during the decision making process. Hynek asked the petitioner about rezoning this lot to the city or a residential zone. Petitioner explained. Hynek commented on possible septic system failure, and the possibly having to hook up to city sewer. Staff explained what could happen should the septic fail. Hynek commented that he may need to hook up to city sewer if his septic failed, and questioned the age of the septic. Petitioner responded and staff commented. Carroll commented on the request being for personal comfort. Petitioner responded. Carroll commented on the alternative to extend the garage lengthwise. Petitioner explained. Hynek questioned petitioner on handicap access as it is now, is it possible to make the current sized property work with the handicap access needed. Petitioner responded. Hynek questioned the handicap equipment used. Petitioner explained. Carroll commented on the business

use in agricultural zone, and could be modified in another direction. Petitioner commented.

There were no questions or comments in favor or opposition of the petition.

V1410-13 – Kim Lund/Andrew & Kim Gundlach Property: Variance from Sec. 11.04(f)6 and the A-1 zone permitted principal uses which allow existing residences only, to temporarily allow two homes while a replacement residence is under construction. The site is at **W5185 STH 106** in the Town of Koshkonong, on PIN 016-0614-3631-001 (17.5 Acres) in an A-1 Agricultural zone.

Kim Lund presented her petition.

Hynek questioned the petitioner if there was going to be a general contractor or if she was going to supervise construction. Petitioner responded. Hynek commented on the use of the existing septic and well, and that the fire department might use it for training purposes. Hynek also questioned the time limit – would 1 year be an issue? - What time would be reasonable? Petitioner responded. Carroll asked for clarification on how long it would be. Zastrow also questioned how long it would take to build. Carroll asked the petitioner to elaborate on the animals she has. Petitioner responded. Carroll commented on the time request by the petitioner. Zastrow questioned staff on removal in the ordinance. Staff explained.

There was a town response in the file which approved this petition, and was read into the record by Carroll. Carroll also questioned petitioner on removal upon completion of the new house.

There were no questions or comments in favor or opposition of the petition.

V1411-13 – James Schultz: Variance from Sec. 11.10(d)3 of the Jefferson County Zoning Ordinance to permit “after-the-fact” patio construction closer than 75 feet from the ordinary high water mark of Blue Spring Lake. The site is at **W1244 South Shore Drive** in the Town of Palmyra, on PIN 024-0516-2734-006 (0.41 Acre) in a Residential R-1 zone.

There was a town response in the file in favor of this petition, and was read into the record by Carroll.

Jim Schultz presented/explained his petition. Mike Schenning from Breezy Hill Nursery also presented information the project.

Carroll commented on the requirements and questioned the petitioner if they were aware of those requirements. Mr. Schenning explained. Mr. Schultz further

explained. Carroll questioned the petitioner on how they were going to meet the criteria that the decisions are based upon. Mr. Schenning explained.

Staff gave staff report and outlined the history of the project. Hynek questioned where the 75' high water mark was at. Mr. Schultz explained it was 5' from the house. Hynek questioned the pictures of what was already there, when the permit was issued for replacement of the retaining walls, and was it the intention of replacing the retaining walls that were originally at this location. Hynek questioned that this process then, because of the retaining walls and where they were at, did it end up tearing out the old stonework, did that end up being torn out then in order to replace them. Mr. Schultz explained the permit was after-the-fact. Hynek question whether all the work was done prior to February 2013 before the permit. Mr. Schulz explained. Hynek commented on the design of the patio and the criteria of the variance. Hynek questioned the petitioner if they felt county was part of the problem for this taking place or if there was a misunderstanding, and if they felt the zoning in some way misinterpreted or gave the wrong information. Mr. Schenning responded.

Carroll commented on the issued permit for the wall, and that there was no permit or no waiver for the need of a permit after the retaining wall. Mr. Schenning explained. Mr. Schultz further explained. Staff also made comment. Hynek questioned staff on the replacement of the patio. Staff explained. Hynek questioned staff on the plan from September 12, 2012. Staff responded. Hynek questioned staff if a 4' walk and railings permitted. Staff responded. Carroll asked the petitioner to address the 3 criteria needed for a variance. Mr. Schultz responded. Hynek questioned the petitioner on the erosion control issue and whether this issue has been solved. Mr. Schulz explained. Zastrow questioned the pictures of the old patio, and could it be replaced in the same location. Staff responded.

There were no questions or comments in favor or opposition of the petition.

10. Decisions on Above Petitions (See following pages & files)

11. Adjourn

Hynek made motion, seconded by Zastrow, motion carried 3-0 to adjourn @ 3:34 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 V1409

HEARING DATE: 09-12-2013

APPLICANT: Jason A. Fiege

PROPERTY OWNER: Jason A. & Kristy M. Fiege

PARCEL (PIN #): 016-0614-3333-039

TOWNSHIP: Koshkonong

INTENT OF PETITIONER: To construct a 14' X 30' (420 sq. ft.) and 6' x 14' (84 sq. ft.) addition to an existing attached garage located in an A-T Zone

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 is proposing a 504 sq. ft. addition to an existing attached garage. The addition is proposed to be placed 11 feet from the lot line whereas the required setback in this zoning district is 20 feet. Currently, the structure meets side setback requirements because it is 27 feet from the side lot line. This property is surrounded by properties within the City of Fort Atkinson. There are several options to reduce the setbacks for this property such as annexation into the City, rezone to R-2 which would reduce the side setback to 15 feet, rezone to R-1 with sewer hook-up reducing the setback to 10 feet, reducing or redesigning the structure to meet setbacks and/or a combination of rezoning and redesigning the structure.

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

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

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

FINDINGS OF FACT

PETITION NO.: 2013 V1410
HEARING DATE: 09-12-2013

APPLICANT: Kim Lund

PROPERTY OWNER: Andrew G. Kim M. Gundlach

PARCEL (PIN #): 016-0614-3631-001

TOWNSHIP: Koshkonong

INTENT OF PETITIONER: To temporary permit two homes while new residence is under construction.

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:

The petitioner is proposing to temporary have two dwelling structures on the parcel while the new home is being constructed. The petitioner is proposing to have two residences on this property for about a year. After the completion of the new residence the petitioner will remove the old residence.

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

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

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

FINDINGS OF FACT

PETITION NO.: 2013 V1411
HEARING DATE: 09-12-2013

APPLICANT: James A. Schultz

PROPERTY OWNER: SAME

PARCEL (PIN #): 024-0516-2734-006

TOWNSHIP: Palmyra

INTENT OF PETITIONER: To allow the after-the-fact construction of a patio within 75 feet from the ordinary high water mark of Blue Spring Lake.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.10(d)3 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 December of 2012, our office received several complaints about earth moving activities within 75 feet of Blue Spring Lake. On December 12, 2012, our office wrote a letter to the landowner about the violation. In response to the violation letter, the contractor contacted our department and proceeded to apply for a Zoning/Land Use Permit. The first plan submitted by the contractor showed a patio within 75 feet of the ordinary high water mark of Blue Spring Lake. Our office contacted the landscaper and indicated that patios are not permitted within 75 feet of the ordinary high water mark. The contractor revised the plan and omitted the patio, submitted additional planting information and the permit was issued in February 11, 2013. In March, the owner of the property, James Schultz, contacted me to inspect the property to see if he was in compliance. Because of snow cover, I couldn't inspect the property until April 2, 2013. At that inspection, it was noted the patio was constructed. I contacted the owner and again, the contractor contacted our department. On April 20, 2013, I met with the contractor on site and indicated to him why the project was not in compliance with the Jefferson County Zoning Ordinance.

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 NOT** PRESENT IN THAT A LITERAL ENFORCEMENT OF THE TERMS OF THE ZONING ORDINANCE **WOULD NOT** UNREASONABLY PREVENT THE OWNER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE OR WOULD RENDER CONFORMITY WITH SUCH RESTRICTIONS UNNECESSARILY BURDENSOME BECAUSE the owner submitted a plan that was approved by the zoning office. Had it been followed, it would have met the zoning ordinance needs. Set control regulations are in place.
- 8. THE HARDSHIP **IS NOT** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE the plan submitted took care of adverse conditions (i.e. erosion, use of property). Alternate compliance methods are available. It was self-created.
- 9. THE VARIANCE **WILL** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE it starts precedence around bodies of water. Set control regulations are in place.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

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

MOTION:

SECOND:

VOTE:

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ **DATE:** 09-12-2013
CHAIRPERSON

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